

Wrongful Confinement and Victorian Psychiatry, 1840-1880

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## Abstract

Victorian society witnessed a transformation in the understanding and treatment of psychological disorders. The expansion of nosologies or classifications of lunacy was one measure hailed by psychological physicians as indicative of their mastery over madness. Yet between the 1840s and the 1870s the introduction of moral insanity and monomania to established classificatory systems undercut the medical authority of physicians and challenged their desired cultural stature as benevolent and authoritative agents of cure. Far from consolidating medical authority, these 'partial' forms of lunacy (which were detected in the emotions rather than the intellect) paradoxically heightened anxiety about the ease with which eccentric or sane individuals could be wrongfully incarcerated in lunatic asylums. This dissertation examines the themes, motifs and defining issues of wrongful incarceration as they were discussed in Parliament, national and regional newspapers, medical and literary journals, and novels and short stories. Discussing in detail several infamous 'cases' of wrongful confinement, it traces the ways in which anxieties were formulated, expressed and negotiated.

The public outcry over cultural representations of wrongful confinement generated heated reactions from physicians and lunacy law reformers. The most contentious discussions centred on the manner in which notions of humanity and benevolence, and tyranny and liberty, were marshalled to influence public opinion. These debates represented not solely a legal conflict centring the claim to treatment and authority over the alleged lunatic, but more dramatically a battle for the public's good opinion. As important as medico-legal trials and their consequent rulings was the contested appropriateness of sentiment; this was manifested in words and images utilised to exacerbate or contain anxiety. The wrongful confinement controversy constitutes an important (though largely overlooked) episode in the history of English nineteenth-century psychiatry; formatively altering perceptions of the profession of mental science in the Victorian period.

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## List of Abbreviations

<i>ALFS</i>	Alleged Lunatics' Friends Society
<i>AJI</i>	<i>American Journal of Insanity</i>
<i>BMJ</i>	<i>British Medical Journal</i>
<i>JMS</i>	<i>Journal of Mental Science</i>
<i>JPMMP</i>	<i>Journal of Psychological Medicine and Mental Pathology</i>

## Introduction

### i. Overview

The possibility that sane or merely eccentric individuals could at the ‘dictation of benevolence, and under the sanction of science’ be ‘seized, gagged, manacled, and placed beyond the pale of the constitution, within the walls of a [lunatic] asylum’ and be subject there to a ‘hideous captivity’ was an enduring cultural anxiety of the Victorians.<sup>1</sup> Wrongful confinement generated widespread apprehension and was discussed not only in pamphlets, novels, journals and newspapers but also in medical and legal circles and in both Houses of Parliament. Specific attention was directed at the roles, rights and responsibilities of physicians specialising in the newly-emerging field of mental science. As this dissertation will demonstrate, these debates associated with cultural representations of wrongful incarceration focused on the dangers to civil liberties perceived in the newly-emerging theories of partial insanity: monomania and moral insanity, forms of partial insanity detected in the emotions, behaviours and morals rather than in the intellectual faculties.

Physicians who made diagnoses of moral insanity and monomania were accused of assisting criminals in evading carceral punishment.<sup>2</sup> However the most contentious and problematic discussions about wrongful incarceration centred on the potential threat that physicians and their theories of partial insanity posed to the ‘liberty of the self’. Paying particular attention to the way in which these discussions drew upon and complicated medico-legal and cultural conceptions of both individual liberty and the liberty afforded to physicians to diagnose lunacy, this study will examine the debates and controversies engendered by the fear of wrongful and illegal incarceration in private lunatic asylums in England from the early 1840s through to the late 1870s.

The Victorians witnessed an unprecedented rise in the cultural prestige of psychological physicians. The development and consolidation of professional bodies and associations whose members specialised in the care and treatment of the insane strengthened their esteem and autonomy within the medical profession.<sup>3</sup> Parliamentary legislation concerning the care and

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1 W.A.F. Browne, *What Asylums Were, Are, and Ought to Be* (Edinburgh: Adam and Charles Black, 1837), p.99; Henry Cockton, *The Life and Adventures of Valentine Vox, the Ventriloquist* (London: Willoughby, 1848), p.vi. First published in 1840; Sheridan Le Fanu, *The Rose and the Key* (Stroud, Gloucs.: Alan Sutton, 1994), p.312. First published in 1871.

2 The inclusion of theories of partial insanity into established psychiatric nosologies also heightened anxiety about their use in other situations. In the late 1860s the new wife of Sir Charles Mordaunt, Harriett Moncreiffe, admitted to him that she had been unfaithful. Shocked, Mordaunt instituted divorce proceedings. Hamilton argues that Harriett deliberately feigned insanity (on the order of her father) in order to prevent the divorce case coming to court. See Elizabeth Hamilton’s account of the scandal in *The Warwickshire Scandal* (Norwich: Michael Russell, 1999).

3 The Association of Medical Officers of Asylums and Hospitals for the Insane (AMOAHI) was established in 1841. In 1853 the Association began to publish its *Asylum Journal of Mental Science* (hereafter abbreviated as *JMS*) under the editorship of the medical superintendent of the Devon



treatment of lunatics was subject to a zealous Benthamite overhaul. Marking the codification of a comprehensive lunacy law, two lunacy Acts of 1845 were instrumental in establishing a nationwide system of care for the insane.<sup>4</sup> Under the 'Act for the Regulation of the Care and Treatment of Lunatics' (8 & 9 Vict. c.100), the Metropolitan Lunacy Commission (which had been established in 1828 and which was commonly perceived to be ineffectual) was replaced by the centralised Board of Commissioners in Lunacy. Chaired by Lord Shaftesbury, the inspectorates comprising the new Commission held specific statutory authority over the insane in England and Wales to license, oversee, inspect workhouses, county, borough and private asylums, and monitor admissions to ensure the prevention of wrongful confinement. The second Act, implemented to 'amend the Laws for the Provision and Regulation of Lunatic Asylums for Counties and Boroughs, and for the Maintenance and Care of Pauper Lunatics' (8 & 9 Vict. c.126) made the provision of adequate care for lunatics in all counties and boroughs compulsory within three years and led to an intense period of asylum construction.<sup>5</sup>

The establishment of the lunatic asylum as the officially-sanctioned site for care and treatment of the insane, and the development of an authoritative medical discourse (underpinned by the consolidation and professionalisation of the field of mental science) both contributed to a sense of therapeutic optimism. The provisions contained in the two Acts also contributed to the development of a new medical attitude towards the insane. From an inhuman brute without reason, the lunatic was now regarded as a diseased individual who was, for the first time, capable of being cured. Underpinning this transformation lay not only the replacement of brutal 'physicking' and

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County Asylum, John Charles Bucknill (1817-1897). Though the journal represented one of the first efforts to construct a collective identity for psychological physicians distinct from other medical practitioners and bodies, the distinction of being the first English journal wholly devoted to the study of insanity fell in 1848 to Dr. Forbes Benignus Winslow's *Journal of Psychological Medicine and Mental Pathology* (hereafter abbreviated as *JPMMP*). As the proprietor of two private establishments for the insane, Winslow's journal was more geared to the needs and interests of physicians associated with private lunatic asylums. Collectively such developments reflect the increasing recognition that insanity was primarily a medical rather than moral problem. Andrew Scull, Charlotte MacKenzie and Nicholas Hervey, *Masters of Bedlam: The Transformation of the Mad-Doctoring Trade*, (Princeton, N.J.: Princeton University Press, 1996), p.194. See also Andrew Scull, *The Most Solitary of Afflictions: Madness and Society in Britain 1700-1900* (New Haven: Yale University Press, 1993), pp.232-244.

4 Michael Donnelly, *Managing the Mind - A Study of Medical Psychology in Early Nineteenth-Century Britain* (London: Tavistock, 1983), pp.17, 28. On the significance of this legislation, see also Leonard D. Smith, 'Cure, Comfort and Safe Custody': *Public Lunatic Asylums in Early Nineteenth-Century England* (London: Leicester University Press, 1999), p.275.

5 On the problems attending the widespread construction of public asylums, see Peter McCandless, "'Build! Build!" The Controversy over the Care of the Chronically Insane in England, 1855-1870', *Bulletin of the History of Medicine*, 53 (1979), pp.553-574.



mechanical restraints with a regime of psychological management, but the development of increasingly sophisticated nosologies or classifications of insanity.

Though the extension of nosologies was hailed as a symbol of increasing diagnostic precision which was capable of transforming the effectiveness of clinical treatment, the incorporation of theories of moral insanity and monomania into established psychiatric nosologies paradoxically engendered public anxiety about the asylum and a fear of physicians specialising in mental diseases. Notwithstanding the safeguards contained in Parliamentary legislation purporting to prevent the possibility of anyone other than the insane being detained within a lunatic asylum, this dissertation will argue that moral insanity and monomania were formative in the construction, negotiation and deployment of anxieties about wrongful confinement throughout the nineteenth century.

Supporters of the asylum perceived in representations of wrongful confinement (and the associated depiction of physicians as devious mad-doctors whose overriding interest in the lunatic was the pecuniary advantage to be gained from his or her detention) a challenge to physicians' recently achieved medical pre-eminence and their coveted cultural status as advocates of a liberal social order. As one physician wrote in 1859,

Instead of giving confidence to those who undertake the ungrateful duty of passing a large proportion of their lives with [...] examples of suffering humanity, every one falls on them; instead of sustaining and encouraging their efforts to improve the houses under their care, and to induce them to make further exertions, they are regarded with jealousy; every attack [...] made on them by a violent patient or disconcerted friends [...] is hailed as a case of misconduct, and until fairly shown to be untrue, and even after it had been so proved, they continue to be attacked by the public.<sup>6</sup>

Charles Dickens expressed similar sentiments. Following his visit to Saint Luke's Asylum on Boxing Day in 1851, the novelist made an impassioned plea to the readers of *Household Words* to retain their faith in physicians, men who found their 'sustainment and reward in the substitution of humanity for brutality, kindness for maltreatment, peace for raging fury; in the acquisition of love instead of hatred'.<sup>7</sup> While Dickens was specifically concerned to defend what many lauded as the vanguard of nineteenth-century humanitarianism, moral management, his comments similarly betray a concern that the public were suspicious of the authoritative declarations of medical skill

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<sup>6</sup> Edward J. Seymour, *A Letter to the Right Honourable, The Earl of Shaftesbury, on the laws which regulate private lunatic asylums with a comparative view of the process 'De Lunatico Inquirendo' in England and the law of 'Interdiction' in France* (London: Longman, Brown, Green, Longmans, & Roberts, 1859), p.18.

<sup>7</sup> Charles Dickens, 'A Curious Dance Round a Curious Tree', *Charles Dickens - Selected Journalism, 1850-1870*, ed. by David Pascoe (London: Penguin Books, 1997), pp.318-326 (p.326). First published in *Household Words*, 17 January, 1852.



and expertise espoused by physicians. Each of the following chapters, outlined below, explores a particular controversy, instance, or representation of wrongful confinement. A consideration of the debates, texts and theoretical arguments and positions with which this dissertation engages will be discussed prior to concluding the introduction with an overview of the historiography of psychiatry in the period.

## ii. *Chapter outlines*

Chapter one examines the case of Daniel McNaughten, brought to trial in 1843 for the murder of Edward Drummond and acquitted on the ground of homicidal monomania. This chapter explores legal, medical and journalistic reactions to the successful use of the partial insanity defence. The contested relationship between individual responsibility and partial insanity was a troubling theme in the debate on the McNaughten verdict. In tracing these concerns as they extended from the courtroom into newspapers and journals, it becomes clear that the diagnosis of monomania was an object of concern in the 1840s. Its employment is here considered in relation to what I argue was an acute concern about the ability of words, images and associations, comprising a rhetoric of humanitarianism, to influence the reactions of the public to both McNaughten and his crime.

In 1846 a middle-aged spinster, Louisa Nottidge, was abducted from a religious community by her family. Diagnosed as suffering from religious monomania, she was placed against her will in a private lunatic asylum. After her release in 1849, Nottidge filed a civil suit against family members for damages. Chapter two will examine this case, paying particular attention to the way in which the validity of monomania as a medical diagnosis and medico-legal conceptions of responsibility were challenged through her lawsuit. The judge presiding over the case directed the jury to find in favour of Nottidge, arguing that individuals posing no dangers to themselves or others should be entitled to liberty. Physicians and commissioners involved in the case were outraged by this decision. Arguing that societal chaos would follow if the judge's *dicta* were enshrined in law, they condemned both the 'humanity-mongers' (those who supported her action for damages) and their deployment of a humane rhetoric of excessive sentimentality. The Nottidge case reveals the fragility of medical authority and the precarious social status of the profession of mental science.

Chapter three shifts from an examination of medico-legal trials to a literary representation of monomania, an important field of inquiry for this study. In 1855 Wilkie Collins published a short story entitled 'Mad Monkton' in *Fraser's Magazine*. It was originally intended for publication in Charles Dickens's *Household Words* but Dickens decided that Collins's treatment of hereditary monomania was problematic and he rejected his friend's story. Central to Dickens's concern was the influence that the story might have on its readers. This chapter will examine the role monomania played in extending the limits of narrative representation and in challenging the



boundary which separated socially-acceptable rhetorical strategies and narrative content from stories which sought deliberately to extend or reformulate the limits of narrative representation.

Chapter four examines the ways in which J.S. Mill's doctrine of liberty informed and influenced debates about wrongful incarceration as they were formulated in a Parliamentary investigation of 1859-60. Mill's equivocal position on the role of public opinion in lunacy commissions complicated medico-legal debates about lunacy and liberty and framed a specific set of anxieties about wrongful confinement which were discussed in the hearings and in newspapers and journals. Using several cases of wrongful confinement, this chapter will consider the problematic relationship between eccentricity and partial insanity as it was understood in lay and medical circles.

Chapter five uses the commission *de lunatico inquirendo* instituted against William Frederick Windham in 1861-62 to explore a contiguous set of concerns arising from the prospect of Windham's detention. Attention will here shift from partial insanity and eccentricity to partial insanity and moral perversity. In the Windham trial, the value of medical testimony came under close interrogation. This chapter will argue that moral insanity initiated and framed a series of important (but overlooked) debates which collectively acted to harm the professional credibility of physicians and entrench in the 'public mind' a powerful fear of wrongful confinement.

Chapter six will examine the efficacy of the predominant trope through which anxieties about wrongful confinement were constructed and disseminated, the Bastille. The words, images and metaphors associated with the Parisian prison became a graphic form of cultural currency and were employed (by individuals who experienced wrongful incarceration and also by novelists and journalists) to convey the arbitrary nature of the Victorian lunacy laws and to signal the horrors of wrongful detention. Acknowledging the rhetorical power of the images to influence readers, the medical community responded by condemning such associations as untruthful and dangerous.

Chapter seven extends a consideration of the concern of physicians at the rhetorical power of words, images and associations by examining Charles Reade's fictional exposé of wrongful confinement, *Hard Cash* (1863). Reade believed that fiction was an ideal vehicle to reveal the iniquities practiced under the auspices of psychological medicine. Critics of *Hard Cash* felt differently. Addressing several of the issues which chapter three also examines, this chapter will consider the concerns generated by Reade's 'matter-of-fact Romance', paying attention to Reade's deliberate conflation of fact and fiction and the angry responses to the novel from the medical community.

Chapter eight examines the extent to which the 'idea' of insanity and wrongful confinement as understood by the lay-public complicated medico-legal debates about wrongful confinement, moral insanity and medical authority. Examining a select committee investigation into wrongful incarceration in lunatic asylums in 1877-78, this chapter will argue that through the course of the nineteenth century the parameters of the debates about wrongful confinement shifted.

In focusing on discussions about the relationship between medical, legal and familial responsibility and in considering debates about the relationship between moral insanity and confinement, this chapter demonstrates the extent to which the terms and ramifications of debates about confinement, and about partial insanity, had altered since the 1840s.

### iii. *Interpretations*

Wrongful confinement in lunatic asylums has received attention from legal, medical and social historians, most notably by William Parry-Jones in *The Trade in Lunacy* (1972), a study of private facilities for the care of the insane in the eighteenth and nineteenth centuries. As Parry-Jones rightly claims, prior to his own contribution to the field few academics had looked closely at the functioning of private asylums for the insane. Those who had studied the ‘madhouse-business’ tended to accept at face-value its infamous reputation as a lucrative and corrupt system based on profit. Parry-Jones criticised scholars for accepting too readily the sensational cases of abuse and malpractice found in private establishments (and widely reported by contemporary observers).<sup>8</sup>

In re-examining what was commonly known as the ‘trade in lunacy’ Parry-Jones refocused critical attention on the previously overlooked contribution these derided institutions made in the care and cure of the insane, demonstrating in particular the valuable role that private licensed establishments played in the care and treatment of *pauper* lunatics during a period when public provision in county asylums was still in the process of developing. Parry-Jones’s study is also notable for the effort to interpret the alleged abuses and defects of the ‘trade in lunacy’ in light of contemporary attitudes to insanity. Examining not only asylum case-books, parliamentary papers and reports, and special inquiries, but also law books, newspapers, novels and tracts written by alleged lunatics themselves, he convincingly argues that what today are considered to be abusive and debilitating treatment regimes were in the late-eighteenth and early-nineteenth centuries common medical practice. In the context of this dissertation, Parry-Jones’s study is important for several reasons. In his analysis of the grounds on which abuses and defects of the system were feared, he notes the often unsuitable physical conditions of confinement, administrative irregularities and illegal practices of asylum superintendants and the inadequacy of magistrates in the context of their supervisory role. Yet despite the suggestiveness of the material he considers, in interpreting wrongful incarceration solely in light of the anxiety generated by the popular perception of a corrupt system based on financial profit Parry-Jones neglects alternative explanations for the construction and dissemination of popular anxieties surrounding wrongful confinement and so overlooks other, equally compelling, factors which led to wrongful

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<sup>8</sup> William Parry-Jones, *The Trade in Lunacy: A Study of Private Madhouses in England in the Eighteenth and Nineteenth Centuries* (London: Routledge & Kegan Paul, 1972), p.2.



confinement and which influenced the shape and outcome of the acrimonious debates both within and between the newspaper press and the professions of mental science and the law.

It will become clear that in the mid-Victorian period, concern about illegal detention in lunatic asylums did not centre on specific motivations of profit and a popular perception of corrupt financial opportunity. Rather, the debates indicate a greater anxiety about the effects of conflicting medical, social and legal conceptions of accountability and 'civil responsibility', and an acute concern with the difficulty of diagnosis attendant upon contested definitions of insanity.<sup>9</sup> Turning on shifting and unstable conceptions of self-discipline, individual agency, social responsibility, the right to liberty of thought and action, and protection from tyranny and infringement of autonomy, the issues I consider collectively assign to the spectre of wrongful confinement a more influential role in Victorian society than has previously been acknowledged. The debates over wrongful incarceration both drew on and contributed to contemporaneous philosophical and political debates about the relationship between the rights of the individual and the authority of the state.

In examining these issues, I am indebted to the work of Peter McCandless and others who have sought generally to relocate the rise of the asylum system in the nineteenth century as the outcome of a series of intricate transactions between a range of social agents (importantly including the family) rather than as the result of the absolute imposition of a medical hegemony. As McCandless has rightly pointed out in one of the very few articles devoted to wrongful confinement in the Victorian period, two factors were central to the threat illegal detention was seen to pose to individual liberty. Making clear the absence of decisive medical authority during this period (and highlighting in contrast the ignorance of many medical men on the subject of insanity), McCandless has argued that in the absence of an authoritative set of diagnostic tools, insanity was necessarily defined by physicians on the basis of value-laden subjectivity.

Though physicians vehemently denied the possibility of wrongful confinement in lunatic asylums, such assertions were problematic. When relying upon symptomatic evidence (in the absence of pathological indicators of insanity), medical men themselves fundamentally disagreed, in the public arena of court-rooms, over what exactly constituted lunacy and at what point in time institutionalisation was necessary. Secondly, in a period characterised by the 'strictness' of the Victorian moral code, it was easier than ever to confuse immorality with insanity, a fact compounded by the expansion of psychiatric nosologies to include moral insanity and monomania. The 'greatest danger to civil liberty arose', McCandless concluded, 'not from an unlikely collection of evildoers, but from ignorance, arrogance, and narrow-mindedness'.<sup>10</sup>

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<sup>9</sup> Henry Monro, *Articles on Reform in Private Asylums* (London: John Churchill, 1852), pp.64-65.

<sup>10</sup> Peter McCandless, 'Liberty and Lunacy: The Victorians and Wrongful Confinement', in *Madhouses, Mad-Doctors, and Madmen: The Social History of Psychiatry in the Victorian Era*, ed. by

McCandless is right to stress the fact that anxiety about wrongful confinement was founded less on the perception of conspiratorial collusion and financial motives than on the complications arising from the developments taking place within Victorian society and, more specifically, the problems attendant on the development of the profession of mental science. However, by paying closer attention to the language of the debates - the metaphors, images and associations by which the lay-public, novelists and journalists expressed their fear of wrongful confinement - a different scenario will emerge which emphasises the extent to which the debates surrounding wrongful incarceration undercut the consolidatory programme of professionalisation of mental science in the mid-nineteenth century.

Three interrelated anxieties in the often acrimonious encounters between the profession of mental science, the legal profession, the newspaper press and the lay-public over wrongful incarceration emerge in the following chapters: the reasons for and consequences of the expansion of psychiatric nosologies, the nature and outcome of the reform of the laws relating to lunacy, and the dangers contained within literary representations of wrongful incarceration.

Firstly, the anxiety elicited by wrongful confinement contributed to a deterioration of confidence in physicians' abilities and even their right to claim the skills to care for, treat, and cure the lunatic. Central to the project of securing medical autonomy over the insane was the development of complex classifications of insanity. It was a fundamental belief, virtually without challenge, that improved theoretical knowledge of symptoms, attributes and signs of insanity enhanced effective treatment. The nineteenth century witnessed an explosion of ranks, levels, and classes, categories and sub-types of insanity, often appended with sub-categories of symptoms and associated conditions. Continental nosologies were incorporated within English systems of classification to produce what the medical community conceived of as an all-powerful tool for treating lunacy with authoritative precision and confidence. While Leonard Smith has examined diagnostic classification in light of the literal functioning of the asylum, Scull considers the widening of classificatory systems as one of the major factors underpinning the rise during the Victorian period of the number of people considered insane.<sup>11</sup> Yet in an examination of cases of wrongful confinement resulting from incorrect diagnoses of lunacy, it becomes clear that the classificatory inclusion of moral insanity and monomania made it more difficult than ever to distinguish the lunatic from the merely deviant or eccentric.

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Andrew Scull (London: Athlone Press, 1981), pp.339-362 (p.347). First published in *Journal of Social History*, 11 (1978), pp.366-386.

11 Smith, "Cure, Comfort and Safe Custody," pp.192-194; Scull, *The Most Solitary of Afflictions*, pp.344-352. On the use of classification in the asylum. See also Anne Digby, *Madness, Morality and Medicine: A Study of the York Retreat, 1796-1914* (Cambridge: Cambridge University Press, 1985), pp.135-137.



I will argue that this lauded classificatory development paradoxically increased in the 'public mind' the belief that it was easier than ever to be wrongfully confined in lunatic asylums. With moral insanity and monomania, the reassuring formulation of madness as it had become manifested in the popular imagination as 'Bedlamite' spectacle (in which one's reason was clearly dismantled by visible disease), was destabilised. The boundaries between madness and sanity that psychological physicians believed distinguished the superiority of Victorian mental science were increasingly precarious and monomania and moral insanity thus highlighted the *fragility* of their authority; not only over the lunatic, but over the public's confidence in their medical authority and social stature.

Secondly, debates over wrongful confinement focused concern both on the inadequacy of the lunacy laws (and so the necessity for their reform), as well as the problematic relationship between legal and medical conceptions of insanity. The 'opposing interests and conflicting opinions' of law and medicine as they related to insanity represented competing versions of authority. As Andrew Scull points out, because the cognitive and evaluative frameworks of the two professions were irreconcilable, conflict remained especially endemic over the criteria and procedures of certification and conceptions of criminal culpability (the insanity defence), two issues over which law and medicine openly clashed.<sup>12</sup> What is most striking in these debates is the important role played by 'public opinion'.<sup>13</sup> Albeit reluctantly, both the professions of law and

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12 Scull, *Madhouses*, p.24.

13 In his 1901 analysis of the relationship between law and public opinion in the nineteenth century, A.V. Dicey defined 'public opinion' as the 'speculative views held by the mass of the people as to the alteration or improvement of their institutions.' Yet he acknowledged that the term remained a mere 'abstraction', a 'power' without any independent existence'. See A.V. Dicey, *Lectures on the Relation Between Law & Public Opinion in England During the Nineteenth Century* (London: Macmillan, 1901), pp.3, 412-413. Despite Dicey's recognition of the theoretical and empirical difficulties inherent in measuring the mechanisms by which ideas are formed and allegiances fostered, the concept of public opinion has remained fruitful because of the way that it denotes a form of power (or will) in social life not ultimately owed to material interests in society. It has been employed most often in scholarly accounts of the relationship between political and social institutions. Studies like Hannah Barker's *Newspapers, Politics and Public Opinion in Late Eighteenth Century England* (Oxford: Clarendon Press, 1998), and J.A. Downie's *Robert Harley and the Press: Propaganda and Public Opinion in the Age of Swift and Defoe* (Cambridge: Cambridge University Press, 1979) explore the formation and effects of 'public opinion' on 'extra-parliamentary political culture[s]' (Barker, p.3) and consider the political ramifications of the 'free' press on emergent democratic structures of government. This study is concerned with a different set of concerns; namely, the way that the term 'public opinion' (or the 'public mind' as it was often described at the time) was both conceived of as an 'idea' and deployed strategically in relation to medico-legal debates about wrongful confinement in lunatic asylums. This study makes clear that the meaning, use and power accorded to the term altered dramatically depending on the groups or individuals employing it; the concept possessed multiple significations in the Victorian period. In the debates discussed in the following chapters, 'public opinion' became a form of rhetoric, and indeed of propaganda: serving to persuade, impress and intimidate the Victorian reading public. The term was simultaneously employed by lunacy law reformers in defence of alleged lunatics,



mental science were forced to acknowledge that they were battling not only over the lunatic but also over the affections of the lay-public and against their popular conception of both the roles and responsibilities of lawyers and physicians.

Numerous historians have acknowledged the important role that the lay-public, and public opinion, have played in relation to the nineteenth-century development of psychiatry. Studies of the profession in America have strongly emphasised the importance of public opinion. Writing on Thomas Kirkbride's philosophy of asylum treatment and management at the Pennsylvania Hospital for the Insane, Nancy Tomes takes issue with both David Rothman and Gerald Grob not only for their misconception of the status of the early psychiatrists but also for the way in which both authors neglect 'the most immediate objects of their professional exertions: the families and friends of the insane'. As she correctly suggests, to 'understand the establishment of psychiatric legitimacy in the early nineteenth century [...] the emphasis on the asylum must be seen as a response to the public as well as professional competitors'.<sup>14</sup> Similarly, the story of the conflict between neurologists and asylum superintendents in late-nineteenth-century America, as Bonnie Ellen Blustein has argued, indicates the extent to which 'the limits of such a medical debate may be set by the interests and opinions of the lay-public'. The controversy she details was not simply a 'jurisdictional dispute among professionals that happened to spill over into the popular press, but an example of the interrelations of lay and professional concerns in the establishment of a working definition of insanity'.<sup>15</sup>

As these two examples suggest, we may also ask whether public opinion in Britain played a similar role in medico-legal disputes. The profession itself became increasingly alarmed at the intervention of public opinion upon topics about which they claimed professional expertise. Their concerns about the role of the lay-public were made all the more acute by the fact that the success of the asylum and the stature of its physicians - the psychiatric legitimacy of the profession of mental science - rested predominantly upon public responses to both cases of wrongful confinement and

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and by the medical community to denounce what they perceived as an ignorant and meddlesome 'public'. In this respect, newspapers and journals (as well as novels) became the object of particular attention for advocates and critics of the lunacy laws because of their self-proclaimed duty to represent, and ability to influence, public sentiment. Those who used the term were attempting to add powerful support to their argument. Once that support had been summoned, the terms of the debate on wrongful confinement, incarceration and the autonomy of physicians changed, perhaps permanently.

14 Nancy Tomes, 'A Generous Confidence: Thomas Story Kirkbride's Philosophy of Asylum Construction and Management', in Scull, *Madhouses*, pp.121-143 (p.122).

15 Bonnie Ellen Blustein, "A Hollow Square of Psychological Science": American Neurologists and Psychiatrists in Conflict', in Scull, *Madhouses*, pp.241-270 (p.244).



the conflicts it exposed.<sup>16</sup> This is a factor which has not received the attention it deserves in British scholarship. It will be addressed in the following chapters by paying specific attention to the power accorded to 'public opinion' and by collectively considering the lay-public as powerful a regulatory agent as the asylum and its physicians or the courtroom and its lawyers.<sup>17</sup>

Thirdly, disquiet was expressed by both lawyers and physicians over the fictional representation of the Victorian lunatic asylum and its physicians. Especial criticism was directed at sensation novelists like Wilkie Collins, Charles Reade and Mary Elizabeth Braddon. Although madness and the motif of confinement were commonly used in nineteenth-century fiction as a device of sensation, a fact that has been examined by a number of commentators, what is most interesting in the context of this dissertation are the reactions produced by the fictional representation of wrongful incarceration. In contrast to Parry-Jones's and McCandless's treatment of Charles Reade's *Hard Cash* (1863), John Sutherland's chapter on Reade's indictment of Victorian mental science in *Victorian Fiction: Writers, Publishers, Readers* (1995) is astute in paying attention both to the novel itself as a work of fiction and to the responses it elicited in the medical community (and from Charles Dickens). Though those who have written on *Hard Cash* make clear Reade's polemical desire to educate a naive reading-public to the realities of asylum care and to encourage active participation in checking the authority of medicine and the law, what even Sutherland overlooks in his examination of the 'delicately poised balance of forces between author, editor, publisher, and reading public' is the specific anxiety Reade's novel raised about the conflation of romance and realism in relation to the popular understanding of wrongful confinement.<sup>18</sup>

Jenny Bourne Taylor and Pamela K. Gilbert's studies of sensation fiction indicate that the complex interface between scientific and medical rhetoric and its cultural and literary manifestations continue to remain a subject of critical investigation.<sup>19</sup> Yet as Helen Small has pointed out, analysis of the relationship between the psychiatric text and the literary depiction of

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16 On the important and overlooked role that families and other non-institutional factors played in the committal of lunatics to asylums, see David Wright, 'Getting out of the Asylum: Understanding the Confinement of the Insane in the Nineteenth Century', *Social History of Medicine*, 10 (April 1997), pp.137-155.

17 The concept of a regulatory agency has more commonly been attributed to the site of the asylum. See *Insanity, Institutions and Society, 1800-1914: A Social History of Madness in Comparative Perspective*, ed. by Joseph Melling and Bill Forsythe (London: Routledge, 1999), p.7.

18 John Sutherland, *Victorian Fiction: Writers, Publishers, Readers* (Basingstoke: Macmillan, 1995), p.61.

19 See Jenny Bourne Taylor, *In the Secret Theatre of Home: Wilkie Collins: Sensation Narrative, and Nineteenth-century Psychology* (London: Routledge, 1988) and Pamela K. Gilbert, *Disease, Desire, and the Body in Victorian Women's Popular Novels* (Cambridge: Cambridge University Press, 1997).

insanity has often been solely concerned to explore complementary or shared narratives, themes and images, and contiguous or coherent rhetorical discourses. In other words, 'few literary critics have questioned the smoothness with which the traffic flows'. Such untroubled referencing, she argues, has limited our understanding of and appreciation for the complex interplay between medicine and literature.<sup>20</sup> The chapters on Wilkie Collins's 'Mad Monkton' and Reade's *Hard Cash* will address this concern by paying attention to the way in which the diverse cultural constructions of and responses to wrongful confinement mediated specific anxieties about the authoritative psychiatric construction of 'stable' identity, the function of the asylum, the role of courts and the responsibilities of the doctors. Ironically, it was precisely the strenuous efforts made by physicians to castigate novelists and deride their fictions for their conflation of fact and fiction, or their 'artistic errors', that exacerbated anxiety and further undermined the consolidating intentions of Victorian psychiatry.

Throughout the dissertation, attention will be paid to the way in which the discourse of enlightened humanity and compassionate benevolence - through which the profession of mental science conveyed to the lay-public the successes of their reforms - was manipulated and undercut, a fact that highlights the problematic relationship between the evolution of 'public sentiment' witnessed in the nineteenth century and the Victorian development of a system of care based on 'compassionate consideration' and benign humanity. Revealing the extent to which the rise of an authoritative psychiatric discourse was contested in courts of law, in literature and in the 'public mind', the controversies and anxieties briefly outlined here position wrongful confinement as historically more important and analytically more problematic than has previously been recognised. Considering that it was not just the fate of the alleged lunatic that was at stake but also the fate of the authority of psychiatric medicine and the cultural stature of its psychological physicians, it is surprising that the debates surrounding wrongful incarceration have not been utilised by social and medical historians in the larger examination of the Victorian world of lunacy. One key explanation for this striking absence of critical attention lies in the increasing recognition of a discordant relationship between the *rhetoric* of the psychological physician and the *reality* of the profession's goals and reforms.

David Rothman's examination of the formation and effects of the lunatic asylum in the United States in the first half of the nineteenth century in *The Discovery of the Asylum: Social Disorder and Disorder in the New Republic* (1971), has been the subject of intense debate. Rothman argued that Jacksonian Americans experienced a crisis of confidence in the social organisation of the new Republic. The radically changing community, marked by an increase in poverty, crime and deviancy, was interpreted by contemporary observers as a harbinger of the dissolution of social ties

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<sup>20</sup> Helen Small, 'In the guise of science': Literature and the Rhetoric of 19th-century English Psychiatry', *History of the Human Sciences*, 7 (February 1994), pp.27-55 (pp.30-31).



and social cohesion. The solution lay in the asylum, an institution that would simultaneously rehabilitate its inmates and set an example to society at large. The asylum was both a cure and a preventative of social disorder.<sup>21</sup>

Rothman's argument that the asylum's conscience-driven humanitarian ethos of cure was soon undermined by burgeoning insane populations, necessitating a shift from curative reform to custodial control, has been subjected to rigorous scrutiny. Peter Bartlett takes issue with Rothman's unproblematic interpretation of the role that the poor played in the downfall of curative institutions, pointing to the manner in which Rothman ignores the question of why the asylum in particular was the chosen site of care and treatment over other institutional or non-institutional solutions.<sup>22</sup> Pointing to the arbitrary manner in which Rothman sees social control operating (with no acknowledgment of the specificity of class-based social locations from which ideas about incarceration emerged), Scull sees in *Discovery of the Asylum* no 'serious and sustained or clearly articulated attempt to link ideas and changing social practices with underlying structures'. Both Bartlett and Scull also question Rothman's claim that the discovery of the uses of the asylum was a uniquely American phenomenon, emphasising the influence on the States of contemporaneous European movements and physicians.<sup>23</sup>

Yet in the context of this study, what is most interesting about Scull's critique of *Discovery of the Asylum* is his condemnation of Rothman's reliance on the claims of reformers and so his inability to distinguish between the rhetoric of disorder, formulated by a particular social group for particular polemical purposes, and the reality of disorder.<sup>24</sup> To Scull, an unqualified acceptance of the intentions of the reformers and the asylum as the outcome of 'a triumphant and unproblematic expression of humanitarian concern' was 'hopelessly biased and inaccurate: one which relies on [...] a systematic neglect and distortion of available evidence'. Rather than examining 'the rhetoric of intentions', Scull claims that a far more fruitful investigation lies in examining what the 'historical record reveals about the establishment and operation of the new apparatus for the social control of the mad'.<sup>25</sup> Like Rothman, Scull's interest lies in how and to what effect psychiatry as a profession consolidated its control over lunacy in the nineteenth

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21 David J. Rothman, *The Discovery of the Asylum: Social Order and Disorder in the New Republic*, (Boston: Little, Brown, 1990), p.xxx. First published in 1971.

22 Peter Bartlett, *The Poor Law of Lunacy: The Administration of Pauper Lunatics in mid-nineteenth century England* (London: Leicester University Press, 1999), p.15.

23 Andrew Scull, *Social Order/Mental Disorder: Anglo-American Psychiatry in Historical Perspective* (Berkeley: University of California Press, 1989), p.97; Bartlett, *The Poor Law*, p.14.

24 Scull, *Social Order*, pp.36-37.

25 Scull, *The Most Solitary of Afflictions*, p.3.



century. Though Rothman and Scull concur on the failure of the asylum to live up to its expectations, their explanations for the development of the asylum differ.

Much more skeptical than Rothman of the reformer's humanitarian and disinterested claims of benevolence, Scull's interpretation of the rise of the asylum is heavily indebted, like Klaus Doerner's *Madmen and the Bourgeoisie* (1981), to Michel Foucault in perceiving the implementation of the asylum in light of the transformed economic requirements of a newly emerging capitalistic society and market economy.<sup>26</sup> Yet at the same time, an underlying determination of Scull's treatment of this process lies in his concern to explore how actions were socially-defined and how people's responses to madness were mediated by and through 'socially-constructed meaning[s]'. In this respect, he pays specific attention to the power invested in psychological physicians to 'negotiate reality on behalf of the rest of society'.<sup>27</sup> While I agree with Scull that Rothman's misinterpretation of propagandist rhetoric is problematic in relation to his use of it as evidence for the existence of social disorder, it remains the case that rhetoric played a powerful role in influencing the lay-public and in mobilising different groups of people around a particular set of rights.

This is a factor that neither Rothman nor Scull adequately analyse. In dismissing the importance of rhetoric, Scull overlooks what is central to this dissertation: the way in which the polemical discourse of humanitarianism, the 'rhetorical ornaments' through which psychological physicians expressed their authority, were in response to cases of wrongful incarceration reformulated and redeployed to critique and question the efficacy of the asylum and the authority of the profession of mental science. Though Rothman pays attention to the philanthropic claims of the reformers he does not trace their development over the course of the nineteenth century and pays scant attention to the distinct nature, and the specific social, cultural and political agendas of the multiple mediums of communication by which the philanthropic and altruistic discourse of benevolent responsibility and enlightened humanity was constructed, dispersed and understood.

While the focus of concern regarding wrongful confinement shifted as the debates oscillated freely between the domains of literature, law and psychiatry, one constant and overarching anxiety centred on the role of rhetorical sentiment (words, images and associations) as it was manifested in legal, medical, literary and journalistic representations of the subjects and arbiters of medical confinement to construct or undermine specific sentiments and attitudes. In other words, by paying close attention to what Parry-Jones dismisses as the 'hue and cry',<sup>28</sup> generated by the spectre of wrongful incarceration in lunatic asylums, it becomes apparent that

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26 On Foucault see below, pp.26-27.

27 Scull, *Social Order*, p.123.

28 Parry-Jones, *Trade in Lunacy*, p.290.



amidst the vying and entangled debates over responsibility and accountability lay an enduring and widespread concern with the use and abuse of sentimental language and the manipulation of representational strategies to contain, exacerbate and mediate popular anxieties. The complex role that rhetorical strategies have played in the construction and containment of anxieties about wrongful confinement has for the reasons outlined above, not been analysed.

In seeking to shed light on the cultural, legal and medical significance of illegal or wrongful detention in the Victorian period, this thesis is necessarily interdisciplinary in its reliance on a multitude of sources. To ascertain the shifting medical paradigms of insanity and its treatment in the lunatic asylum, I have turned to psychological tracts, treatises and journals. To explore the evolving relationship between the law and medicine (in reference to their conflicting interpretations of responsibility), I have employed legal journals, text-books, parliamentary papers and reports resulting from key investigations into psychiatry and civil liberties, and through them have explored the ways in which medico-legal precedents and principles were discursively framed and dispersed. In order to analyse the construction of anxieties surrounding wrongful incarceration, it has been necessary to focus also on the representation of the lunatic asylum and its physicians and patients in novels, short stories and poems as they engaged with specific medical theories and particular medico-legal debates. Similarly, the coverage of cases of wrongful confinement in both the editorial and correspondance pages within both regional and national newspapers has been a fruitful source through which to ascertain how the Victorian reading public conceived of such sensational cases and responded to them.<sup>29</sup>

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29 The rise of literacy rates, the development of societies and organisations devoted to learning, and the growth of the periodical and newspaper press (attendant on technological advances which contributed to mass market circulation) collectively ensured that reading became a near-universal ability in the possession of all classes in the Victorian period. My use of the terms Victorian 'public' and 'popular' or 'lay' assumptions, attitudes and beliefs throughout the dissertation is underpinned by these developments and refers primarily to the Victorian reading public, a heavily-divided community but one no longer narrowly circumscribed by class affiliations. On the rise of literacy in the period, see Louis James, *Fiction for the Working Man 1830-1850* (Oxford: Oxford University Press, 1963; repr. Middlesex: Penguin Books, 1974), pp.2-5; See also David F. Mitch, *The Rise of Popular Literacy in Victorian England: The Influence of Private Choice and Public Policy* (Philadelphia: University of Philadelphia Press, 1992). On the growth of societies devoted to the dissemination of knowledge, see in particular Scott Bennett, 'Revolutions in thought: serial publication and the mass market for reading' in *The Victorian Periodical Press: Samplings and Soundings*, ed. by Joanne Shattock and Michael Wolff (Leicester, Buffalo and Toronto: Leicester University and University of Toronto Press, 1982), pp.225-257. On the development of the newspaper and periodical press, see Barbara Onslow, *Women of the Press in Nineteenth-Century Britain* (London: Macmillan Press, 2000), p.9-12; Richard D. Altick, *The English Common Reader: A Social History of the Mass Reading Public, 1800-1900* (Chicago and London: The University of Chicago Press, 1957), Alan J. Lee, *The Origins of the Popular Press in England 1855-1914* (London: Croom Helm, 1976), and Lucy Brown, *Victorian News and Newspapers* (Oxford: Clarendon Press, 1985).



The body of medical treatises, pamphlets and tracts, newspaper and journal articles, poems and short stories centring on or mentioning moral insanity and monomania collectively represents a means by which to explore and ultimately expose what I argue were entrenched yet problematic anxieties about the nature of madness and its relationship to morality and perversity. Similarly, they expose concerns over the medical and socio-cultural means employed to contain or cure insanity. What makes moral insanity so fascinating in this respect is the extent to which its contested nature provides us with a means to break down the complex dialectic between the often divided aims and methods of psychiatric practitioners and consequently the lay-public's contradictory and confused negotiation of morality, insanity, and liberty. In many ways, the profession of mental science as an authoritative arbiter of mental health flourished during the nineteenth century. Yet an examination of the application of the doctrines of monomania and moral insanity and the lay public's response to them rather serves to clarify what in fact constituted a damning indictment of the individuals and official bodies whose responsibility it was to take charge of madness.

While with insanity in general one can naturally locate popular concerns and anxieties, what an examination of moral insanity and monomania reveals is the extent to which physicians themselves became the targets of anger and fear. Novels, periodicals, cartoons, and newspaper articles (documents that collectively enable us to locate assumptions, attitudes and fears) all address the increasing precariousness of the borderline between sanity and madness. Such fluidity, exacerbated by the debates *within* the psychiatric profession, was threatening because it became widely believed that the labelling of moral insanity meant that anyone could potentially be incarcerated as depraved and immoral.

In recent years, monomania and moral insanity have both been the subject of critical investigation. Especial attention has been devoted to the role played by moral insanity in an acrimonious debate in 1860s America between two prominent physicians, Isaac Ray (the foremost proponent of moral insanity) and John Gray (a vociferous critic of the new disease entity).<sup>30</sup> Though not the subject of this study, the debates that were taking place in America over moral insanity were constructed around a similar set of issues and concerns to those facing English physicians (this will be briefly discussed in chapter five). One reason why English scholarship on moral insanity has not equaled that of American academics is because there was not an equivalent

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<sup>30</sup> See S.P. Fullinwider, 'Insanity as the Loss of Self: The Moral Insanity Controversy Revisited', *Bulletin of the History of Medicine*, 49 (1975), pp.87-101; Robert J. Waldinger, 'Sleep of Reason: John P. Gray and the Challenge of Moral Insanity', *Journal of the History of Medicine and Allied Sciences*, 34 (1979), pp.163-179; Gary Belkin, 'Moral Insanity, science and religion in nineteenth-century America: the Gray-Ray debate', *History of Psychiatry*, 7 (December 1996), pp.591-613. See also the debate over moral insanity during the trial of Charles Guiteau for shooting President James Garfield in 1881 in Charles E. Rosenberg, *The Trial of the Assassin Guiteau: Psychiatry and Law in the Gilded Age* (Chicago: University of Chicago Press, 1968).



Gray-Ray 'controversy'. As this dissertation indicates, the concerns directed at the use of moral insanity and monomania were in relation to anxieties about wrongful confinement pervasive and wide-ranging.

As with Gary Belkin, who argued that the Gray-Ray debates negotiated a specific concern about the status of scientific knowledge and authority in a society in the process of rapid secularisation, Hannah Franziska Augstein has used the concept of moral insanity (introduced to English medical circles by J.C. Prichard in 1835) to examine concern about the decline of religion in a materialist age.<sup>31</sup> To Elaine Showalter, moral insanity joined moral management and moral architecture as one of the triple cornerstones of Victorian psychiatric theory and practice. Her conception of the disease entity is shaped by her belief that moral insanity was a diagnosis deployed by a male medical establishment to regulate and contain what were conceived of as aberrant female behaviors, emotions and actions.<sup>32</sup>

Despite the pre-eminence she accords to the disease, Showalter overlooks the absence of consensus in the medical profession over its existence and does not examine the nexus of concerns it generated.<sup>33</sup> Though Roger Smith has included in his examination of the 'new topography of lunacy' a consideration of moral insanity, in focusing on the relationship of the disease to legal concepts of responsibility (and the relationship between crime and moral insanity), his work similarly overlooks the issues which this study considers. Few scholars have examined the role this disease played in debates about wrongful confinement in lunatic asylums.<sup>34</sup> In a striking omission, Parry-Jones makes no reference in *The Trade in Lunacy* to either moral insanity or monomania.

Both Klaus Doerner and Jan Goldstein examine the role monomania played in the genesis of the French psychiatric profession in the nineteenth century. Drawing attention to the way in which it was deployed as a political tool and used to demarcate the emerging profession from other

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31 Hannah Franziska Augstein, 'JC Prichard's Concept of Moral Insanity - a Medical Theory of the Corruption of Human Nature', *Medical History*, 40 (1996), pp.311-343.

32 The incorrect belief that moral insanity was predominantly a female malady remains pervasive. In BBC Radio 4's Archive Hour (3/3/01) on the history of Severalls Mental Hospital in Essex, Diana Gittings (the author of a history of the hospital) described moral insanity as a disease label applied solely to women and young girls who were sexually active and who lacked control.

33 Similarly, though G.E. Berrios argues in his introduction to the Classic Text series that moral insanity remains 'an enduring legend', his concern with the origins of this legend precludes an examination of the larger socio-cultural framework in which it was deployed and debated. See G.E. Berrios, 'J.C. Prichard and the Concept of Moral Insanity', *History of Psychiatry*, 10 (March 1999), pp.111-126 (p.111).

34 Peter McCandless is an exception, though his discussion of the disease entities in relation to wrongful confinement is brief. See McCandless, 'Liberty and Lunacy', pp.354-355.



scientific disciplines such as sociology, their important contributions cannot be underestimated.<sup>35</sup> Jenny Bourne Taylor and Sally Shuttleworth have both examined moral insanity and monomania in relation to Victorian fiction.<sup>36</sup> However, as with moral insanity, monomania's relative absence from or peripheral position in the majority of scholarly accounts of Victorian psychiatry remains surprising considering the centrality of the disease entity to debates about wrongful incarceration.

#### iv. Historiography

The Whig interpretation of history has been an influential model of historical analysis in the study of the history of psychiatry. The meliorative assumption of enlightened progress, and the advancement of a benign and uncomplicated story of progressive enlightenment, improvement and reform, has been widespread and long-standing.<sup>37</sup> Yet as early as the 1940s, this model of analysis, and all that it advanced, was subject to rigorous scrutiny and criticism.<sup>38</sup>

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35 See Jan Goldstein, *Console and Classify: The French Psychiatric Profession in the Nineteenth Century* (Cambridge: Cambridge University Press, 1987) and Klaus Doerner, *Madmen and the Bourgeoisie: A Social History of Insanity and Psychiatry*, trans. by Joachim Neugroschel and Jean Steinberg (Oxford: Basil Blackwell, 1981), pp.148-153. First published in 1969. See also J. Goldstein, 'Professional Knowledge and Professional Self Interest: The Rise and Fall of Monomania in 19th-Century France', *International Journal of Law and Psychiatry*, 21 (Fall 1998), pp.385-396.

36 Taylor, *In the Secret Theatre of Home*; Sally Shuttleworth, *Charlotte Brontë and Victorian Psychology* (Cambridge: Cambridge University Press, 1996). See also *Embodied Selves: An Anthology of Psychological Texts, 1830-1890*, ed. by Jenny Bourne Taylor and Sally Shuttleworth (Oxford: Clarendon Press, 1998), pp.251-284. Perhaps because of its regular appearance in Victorian fiction, monomania has been the object of examination in a number of recent articles. See, for example, Graeme Tytler, 'Heathcliff's Monomania: An Anachronism in Wuthering Heights', *Brontë Society Transactions*, 20 (June 1992), pp.331-343; and Tytler, 'Charles Dickens's 'The Signalman': A Case of Partial Insanity', *History of Psychiatry*, 8 (1997), pp.421-432.

37 Studies of psychiatry grounded in this teleological tradition of history writing include Gregory Zilboorg, *A History of Medical Psychology* (New York: Norton, 1941), Norman Dain, *Concepts of Insanity in the United States, 1789-1865* (New Brunswick, N.J.: Rutgers University Press, 1964), Kathleen Jones, *Lunacy, Law and Conscience, 1744-1845*, and *Mental Health and Social Policy, 1845-1959*; jointly abridged and republished as *A History of the Mental Health Services* (London: Routledge & Kegan Paul, 1972). More recent accounts include Edward Shorter's *A History of Psychiatry: From the Era of the Asylum to the Age of Prozac* (New York: John Wiley, 1997).

38 Compare, for example, Albert Deutsch's relatively benign *The Mentally Ill in America: A History of their Care and Treatment from Colonial Times* (1937) to his scathing condemnation of American psychiatric institutions in *The Shame of the States* (New York: Harcourt, 1948). The post-Foucault dismissal of this early scholarship is strikingly assessed by Scull, who regards these early accounts as representative of the naïveté and narrowness of 'deeply embedded' notions of progress which functioned as 'intellectual strait-jackets [rather] than as a means to insight and understanding'. Kathleen Jones's interpretation of Victorian psychological physicians as purveyors of scientific enlightenment, for example, is to Scull representative of her 'naive Whiggish perspective'. See Scull, *Social Order*, pp.34-35, 143.



Calling into question implicit value-judgments and the absence of any sustained analysis of what actually constituted 'progress' in such historical accounts, from the 1960s a new relativism emerged. Subjecting blatant assumptions to rigorous critique and historicising the terms of analysis, the terms of the debate were fundamentally repositioned. In the midst of a climate of disillusionment resulting in a range of challenges to authority witnessed from the 1960s (including from the early 1970s prison riots and exposés of horrific conditions in state hospitals for the insane), the structural mechanisms by which deviance was institutionally contained and controlled by the state garnered especial attention. The social legitimacy of prisons and asylums for the mentally ill was in decline.<sup>39</sup>

After conducting research at St Elizabeth's Psychiatric Hospital in Washington, D.C., Erving Goffman published his highly influential *Asylums* in 1968. Goffman argued that the asylum, hospital, prison, monastery and boarding school displayed strikingly similar characteristics. They all represented closed communities, separating their inmates from the world outside. Wholly reliant on the regimes of discipline enforced by staff members the inmates were unprepared for life after institutionalisation. The mental hospital, in particular, was to Goffman an institution which while purporting to be a therapeutic organisation with rational aims and officially approved curative ends, was in fact a site which heightened and even promoted disturbance. As Scull again makes clear, the power of Goffman's *Asylums* lay not in its (weak) evidentiary basis but rather in the way in which he promoted the idea of carceral institutions as repressive mechanisms of social control.<sup>40</sup>

Since the 1960s, the concept of 'total institutions' has been an enormously influential ideological construct for historians, sociologists, and health-care professionals (and social policy) alike and has led to a sustained interrogation of formal institutions of control and the relationship they articulated between social classes and the distribution of power. Yet it was not just the institution that came under attack. With R.D. Laing's *The Divided Self* (1960) and Thomas S. Szasz's *The Manufacture of Madness* (1970), attention shifted from the site of incarceration to the medical diagnosis by which an individual was incarcerated in the asylum. Both Laing and Szasz argued that madness was itself a creation of the therapeutic state, produced by the very regimens that were scientifically and medically constructed to study and treat it. As the foremost proponents of the 'antipsychiatry' movement, the disillusioned psychiatrists condemned the paternalistic authority of medicine by arguing that psychiatric hospitalisation, instituted by agents of the state in the guise of physicians, sought to fulfil the pernicious goals of social conformity and social order.

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<sup>39</sup> Rothman, *Discovery*, p.xvi.

<sup>40</sup> Scull, *Social Order*, pp.308-309.



The sociologist E.A. Ross defined 'social control' in 1901 in response to the question of how humans are influenced by the society in which they live and what factors, other than legally imposed rules, make an individual act in certain ways. For Durkheim and Weber the concept of social control was a fruitful model for explaining why industrial societies avoided descending into selfish individualism. The benign neutrality of this model dissipated as it was increasingly used to explain the success of the bourgeoisie in transmitting their values to the rest of society, in manipulating and regulating the actions and behaviors of the working classes in order to serve their interests. With Szasz and Laing, too, social control became a pejorative term, used to challenge the dominant conception of psychosis as illness and asylums as therapeutic institutions.<sup>41</sup>

To Szasz, it was the involuntary and non-contractual relationship between the physician and the patient that marked out psychiatry's dangerously subtle yet coercive function within society. Medical procedures such as lobotomies and sterilisation, and the employment of debilitating drugs, were sinister and draconian regulatory interventions; the diagnosis of insanity, employed to 'explain away problems in personal and social relationships', was a socially-ascribed label no different from the way witchcraft was theologically used in the Middle Ages to deny moral, personal, political and social controversies.<sup>42</sup> As Porter interpreted Szasz's analogy, 'modern psychiatry conducts its own witchhunts'.<sup>43</sup> The indictment of psychiatry's motives by the 'antipsychiatry' school have been marked by productive though occasionally acrimonious controversy, making clear the fallacy of a unified 'revisionist' position.

Any student of mental illness and its institutions is equally indebted to the groundbreaking writings of the late French Professor of history of Systems of Thought, Michel Foucault (1926-1984). Influenced by a number of intellectual movements in France, including Althusser's Marxism and the Annales school's long-term focus on temporal patterns of change, Foucault's *Histoire de la Folie* (1965), abridged and republished in 1971 as *Madness and Civilization*, represents a powerful challenge to the triumphalist histories of science and medicine of the 1940s and 1950s. Foucault's seminal text has led to a powerful historiography and a profusion of articles, reviews and books. There is no need here to rehearse the well-established

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41 For an explanation of shifting meaning and application of the term 'social control' see Rothman, *Discovery*, p.xxxvi. For a more general overview see *Social Control in Nineteenth Century Britain*, ed. by A.P. Donajrodzki (London: Croom Helm, 1977) and F.M.L. Thompson, 'Social Control in Victorian Britain', *Economic History Review*, 34 (May 1981), pp.189-208.

42 Thomas S. Szasz, *The Myth of Mental Illness: Foundations of a Theory of Personal Conduct* (St. Albans, Herts.: Paladin, 1972), p.189. First published in 1962.

43 Roy Porter, *A Social History of Madness: The World Through the Eyes of the Insane* (New York: Weidenfeld & Nicolson, 1987), p.113.



debates about Foucault's interpretation of the structures and applications of power as they related to psychiatry.<sup>44</sup>

According to Foucault, between the middle of the seventeenth century and the beginning of the nineteenth century, silence came to replace what had previously represented a dialogue between reason and unreason. It was the institution of the lunatic asylum (the compelling 'personality' of the physician and the introduction of 'moral management') which bound madness to reason, invisibility and ultimately, domesticated monotony. *Madness and Civilization* concludes with the emergence of the asylum and its repressive regimes. In contrast, this study commences long after the 'birth' of the asylum and does not seek to examine the 'experience' of madness. Rather, it explores the perceptions, attitudes and beliefs which were constructed in response to (and influenced by) the 'mythical values' transmitted by Pinel and Tuke's acts of 'liberation'. This dissertation traces the reactions to, and consequences of, cultural representations of wrongful confinement as they were shaped by the 'voice' of public opinion, a frame of reference which necessarily complicates Foucault's analysis.

In focusing on the manner in which the lay-public transformed medico-legal discourse, it is explicitly concerned with the 'language' of psychiatry rather than the study of silence. This development, I argue, functions as an energetic constraint to the *early* Foucauldian notion of totalizing institutions, characterised by repressive power structures manifested solely in the physician-patient relationship. It offers an alternative interpretation of the nineteenth-century history of psychiatry; one which registers a much more complex view of the interaction and struggle of multiple discourses, and one which draws attention to the intricate relationship *between* specific structures of power and representations of powerlessness.

The shift to a more nuanced and more interrogative analysis, or the movement away from the concept of 'total institutions' to the specific analysis of institutions, practices and philosophies of mental illness (within specifically national contexts) has been marked in recent studies of Victorian mental science (and in Foucault's later, more nuanced, consideration of the productive nature of power and its structural mechanisms). Detailed archival studies of the institution of the lunatic asylum and its critics and defenders have drawn attention to the cultural complexity underlying the rise of psychiatry as a scientific discipline. The asylum is now understood as a complicated cultural phenomenon rather than as a site (like the prison) symbolising a bourgeois conspiracy (discussed by Foucault and others in relation to class-specific strategies of power and control). As many recent studies indicate, the displacement of revisionist interpretations of the insane and the asylum does not represent a retreat to the Whig position but rather an acknowledgment that the profession overseeing the care and treatment of the insane must be understood in relation to the society in which it

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44 See, for example, *Rewriting the History of Madness: Studies in Foucault's Histoire de la Folie*, ed. by Arthur Still and Irving Velody (London: Routledge, 1992); and *Reassessing Foucault: Power, Medicine and the Body*, ed. by Colin Jones and Roy Porter (London: Routledge, 1994).



operated.<sup>45</sup> Having considered historically the ways in which the field of psychiatry has been analysed and interpreted, chapter one will return to the nineteenth century, using the case of Daniel McNaughten to explore the hostilities and anxieties his acquittal generated.

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45 Indicating the power of the anti-psychiatry movement, a wider questioning of the efficacy of asylums led to the closing of institutions. Yet far from representing a triumph of emancipation, the policy of deinstitutionalization was not attended by the revelation of 'truths' and did not solve the 'problems' of institutionalization. Instead, it resulted in heightened anxieties over the tragic consequences (for example, homelessness and drug-addiction) of liberating patients from institutions, in many cases without adequate provision for 'care in the community'. See Gerald Grob, *The Mad Among Us: A History of the Care of America's Mentally Ill* (Cambridge, MA: Harvard University Press, 1994), p.2. For an overview of recent developments in the social history of psychiatry, see Joseph Melling's introductory chapter in *Insanity, Institutions and Society*.

## Chapter One

### The Case of Daniel McNaughten

The trial of Daniel McNaughten in 1843 provides us with a moment in time when popular conceptions of *rightful* confinement were formulated in lengthy debate both in the courtroom and in the papers. The murder of Edward Drummond and the subsequent trial of his assassin, McNaughten, is important for two reasons. Firstly, it garnered an unusual degree of attention and commentary. Secondly, the verdict, not guilty by reason of insanity, led to the formulation of the McNaughten 'rules', rules that were to guide the relationship between insanity and responsibility throughout the nineteenth century. Despite the fact that it was a criminal trial and brought into the public arena not by the actions of family members but by the crown, the case represents *the* important benchmark by which to consider what medical, cultural and social factors were essential, in the popular mind, rightfully to demand confinement in a lunatic asylum. The 'most intense sensation'<sup>1</sup> of the McNaughten case provides in this sense a socio-cultural framework through which to assess the extent and shape of anxieties over wrongful confinement which were exhibited in the no less sensational but legally less important civil cases of Louisa Nottidge in 1849 and William Frederick Windham in 1861-62.

In employing the trial of McNaughten as a lens through which to examine the dominant nineteenth-century legal and social construction of rightful confinement, one major factor immediately presents itself. The McNaughten trial was not the first to consign automatically an insane offender to a lunatic asylum: this had occurred in 1800 with the trial of James Hadfield. On 15 May 1800, George III and his wife and daughters attended a play at the Theatre Royal in Drury Lane. During the performance, a shot was fired in the direction of the King. Hadfield was immediately restrained and taken to the music room beneath the stage, where he was interviewed by the Duke of York (the King's brother), who had also been in attendance. Hadfield was brought to trial on a charge of high treason which commenced on 26 June, 1800. The major problem that faced Thomas Erskine, Hadfield's defence counsel, was that in many respects Hadfield seemed in absolute possession of his reason. In representing the prosecution the Attorney-General, Sir John Mitford, brought to the stand the Duke of York, who testified that in his interview with Hadfield he appeared to be completely rational. Because the defendant appeared to realise what he had done, had understood the nature and quality of his act, and had fully comprehended that the murder attempt was treasonable, it was clear to Erskine that Hadfield did not conform to the 'wild beast' standard which had been formulated by Judge Tracy in the case of *Rex v. Arnold* in 1723 and which

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<sup>1</sup> *Weekly Chronicle*, 22 January, 1843, p.5.



had been the sole existing means of acquittal on the grounds of insanity.<sup>2</sup> In the case heard before the King's Bench at Westminster Hall, Erskine instead employed 'masterly rhetoric' to redefine the meaning of insanity. He framed his argument around Hadfield's delusions, highlighting his client's belief that because the Second Coming was imminent and George III's 'sunken state' would entail disaster, his mission was 'to rid the world of said Monarch so that a more wholesome climate might greet the redeemer'.<sup>3</sup>

Erskine put forth the novel idea that 'reason is not driven from her seat, but distraction sits down upon it along with her, holds her, trembling upon it, and frightens her from propriety'.<sup>4</sup> In replacing the idea of madness as total baseness with the idea that delusions and irresistible impulses resulted from a diseased brain, and as such could not be prevented, Erskine was successful. Ignoring instructions both from Judge Kenyon and the prosecution to find Hadfield guilty, the jury entered the verdict of not guilty by reason of insanity. The verdict was met with apprehension. Many were frightened by the idea that a man who they perceived as a murderer rather than a lunatic could be released into the community (Judge Kenyon feared for the safety of 'every man of every station, from the King upon the throne to the beggar at the gate'<sup>5</sup>). It was the prospect of Hadfield's liberty which led to the passage of the Insane Offenders Bill. Under the Bill which led to the Act of the same name (and which had been specifically passed using retrospective language in order to confine Hadfield in Bethlem until 'His Majesty's Pleasure be Known'), all who were acquitted on the grounds of insanity were to be taken into strict custody. Removing from juries the authority to acquit offenders whom they believed were insane at the time they committed the criminal act ensured that criminal lunatics were no longer legally entitled to release.<sup>6</sup>

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2 The 'wild beast' test formulated by Judge Tracy in the trial of 'Mad Ned' Arnold (who had shot and Killed Lord Onslow) deemed that an individual who is 'totally deprived of his understanding and memory, and doth not know what he is doing, no more than an infant, a brute, or a wild beast, [...] is not the object of punishment'. In order for an individual to be held exempt from justice and the punishment of the law, under the test he or she must be wholly deprived of his or her reason, understanding and memory. Because it was successfully argued that Arnold had purchased the gun and gunpowder in a lucid interval, he was found guilty of murder. Tracy quoted in Norman J. Finkel, *Insanity on Trial* (New York: Plenum Press, 1988), p.13.

3 Quoted in Finkel, *Insanity on Trial*, pp.14-15.

4 Erskine quoted in Nigel Walker, *Crime and Insanity in England*, 2 vols (Edinburgh: Edinburgh University Press, 1968), I, The Historical Perspective, p.77.

5 Walker, *Crime and Insanity*, I, p.78.

6 Martin J. Wiener, *Reconstructing the Criminal: Culture, Law, and Policy in England, 1830-1914* (Cambridge: Cambridge University Press, 1989), p.84. The generally agreed importance of the case lay in the way that Erskine 'had circumvented the normal test of ability to distinguish right and



Though it was the Insane Offenders Act that had set the legal groundwork for automatic incarceration, it remained with the McNaughten case to set a precedent by which to determine the responsibility attached to *partial* forms of insanity, and thus to undermine, finally, the wild beast standard. The case of McNaughten is important in this respect because despite the precedent set by the Insane Offenders Act, a legal stricture which would ensure McNaughten's confinement even if he was found not guilty by reason of insanity, the case still elicited anxious debate about the nature of rightful confinement and the threat posed by such individuals both to themselves and to society at large. This chapter is divided into four sections. The first section explores initial responses to the assassination attempt (the victim, Drummond, lived for five days prior to his death on 25 January, 1843) and considers the way in which the case has been interpreted by historians. The second section examines newspaper responses to the murder. Though the motive, victim and crime were naturally the focus of attention, of most interest in the coverage of the assassination attempt was the consideration of McNaughten's mental state and the proper retribution he should receive. This section will focus upon the rhetorical strategies by which newspapers sought to influence their readers either sympathetically to view McNaughten as mad (for whom the lunatic asylum was the proper place of detention), or to unsympathetically view him as a cold-blooded murderer (who should be subject to carceral punishment). The third section will focus upon the trial itself, considering the legal strategies of both prosecution and defence counsel. The concluding section will examine the role played by physicians in the trial and consider the contested role played by theories of partial insanity. Though Alexander Cockburn's use of monomania was legally successful, its reception, like the verdict itself, was less triumphant. This last section will conclude by considering the 'rules' which the case of McNaughten established.

*i. 'a cold-blooded murderer'?*

On 20 January, 1843 Sir Robert Peel, the Tory prime minister since 1841, had the 'painful duty' of writing to Prince Albert with the news that his private secretary, Edward Drummond, had been shot at point blank range upon exiting from his uncle's bank in Charing Cross, London. Peel wrote with confidence that although the ball from the pistol had entered through Drummond's back and had passed around his ribs, '[n]o vital part appears to have been injured, and there is no

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wrong by arguing solely from the premise of Hadfield's clearly established delusion'. John Hostettler, *Thomas Erskine and Trial by Jury* (Chichester: Barry Rose Law Publishers, 1996), p.159.



unfavourable symptom whatever'.<sup>7</sup> However five days later, on 25 January 1843, Drummond died.<sup>8</sup> Initially, all that was known about the assassin was his name. On the day Drummond died, Peel wrote to the Queen, using the traditional third-person form of address, to express his concern that far from a random killing by a violent lunatic, it may well have been an organised assassination.

The Evidence of his [McNaughten] mental delusion is strong, but it must be borne in mind that he was exactly the instrument which others would employ. Sir Robert Peel has no reason for surmising this to be the case, but the possibility of it ought not and shall not be overlooked.<sup>9</sup>

Though Queen Victoria's response to Peel's letter is not recorded, Peel's reply of the same day indicates that she was specifically interested in McNaughten's mental state.<sup>10</sup> Peel agreed with the Queen that if the 'Law does not attach its severest penalty to a crime so premeditated [McNaughten had also purchased the gun prior to the assassination attempt] and so deliberately and savagely perpetrated' it would be 'most unfortunate indeed'.<sup>11</sup> Peel confirmed to the Queen that 'every effort will be made to bring him to condign punishment'. However he acknowledged that McNaughten's defence counsel would probably 'endeavour [to establish] his insanity'. At this stage Peel remained confident that McNaughten would nevertheless be found guilty of murder. It

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7 Peel to Prince Albert, 20 January, 1843, *The Letters of Queen Victoria - A Selection from Her Majesty's Correspondance Between the Years 1837 and 1861*, ed. by Arthur Christopher Benson, 3 vols (London: John Murray, 1907), I, p.570.

8 Edward Drummond had had a distinguished career as Private Secretary to Canning, Ripon, and Wellington before taking up office with Peel. He was popular with those who knew him until his violent death, at the age of 51, in 1843.

9 Peel to Victoria, 25 January, 1843. Benson, *Letters of Queen Victoria*, I, p.572.

10 On 10 June, 1840, the Queen was herself the object of an attack by a young man, Edward Oxford, who brandished a pistol while the Queen was in her carriage. In his trial, the prosecution argued that papers found in Oxford's lodging (suggesting links with Young England) implied an organized assault. Oxford's defence counsel brought to the stand several medical witnesses, including John Conolly (1794-1866), who all testified that the assault was committed under the influence of hereditary moral insanity. The Solicitor-General ridiculed the doctrine of moral insanity. However, because the pistol only contained blank shots, the jury found Oxford not guilty on the grounds of insanity. Under the Insane Offenders Act of 1800, he was removed to Bethlem. For an account of the trial, see J. F. Clarke, *Autobiographical Recollections of the Medical Profession* (London: J. & A. Churchill, 1874) and Wiener, *Reconstructing the Criminal*, p.86. On Oxford and moral insanity see Samuel Wilks, 'An Account of Some Papers of the Late Dr. Hodgkin', *Guy's Hospital Reports*, 3rd series 23 (1878), pp.87-91; and Amalie M. Kass and Edward H. Kass, *Perfecting the World: The Life and Times of Dr. Thomas Hodgkin, 1798-1866* (New York: Harcourt Brace Jovanovich, 1988), pp.324-28.

11 Peel to Victoria, 25 January, 1843, Benson, *Letters of Queen Victoria*, I, p.573.



was inconceivable to the prime minister that McNaughten could be acquitted on the grounds of insanity when, even at this early stage, '[n]othing can be more collected and intelligent in many respects than his conduct in prison'.<sup>12</sup>

Lord Melbourne also wrote to the Queen declaring the assassination 'indeed a most horrible event' and 'a dreadful thing'. Though the Home Secretary, Sir James Graham, was soon aware of McNaughten's Chartist sympathies and of the 'violent part' he had taken in politics, Melbourne failed to see 'any clear, distinct, and certain evidence of what were the real motives and object of the man'.<sup>13</sup> In contrast to Melbourne's ignorance or speculative reservations, the London-based daily and weekly newspapers lost no time in despatching reporters to Scotland to discover information that might reveal more about the assassin and point to a motive for the murder. Only a week after the assassination, the *Weekly Chronicle* suggested, rather disingenuously, that the 'public has nearly exhausted itself in speculating upon the motive [...] The belief that the shot was intended for the prime minister seems to be gaining ground daily'.<sup>14</sup>

McNaughten's Chartist sympathies and the part they played in the assassination have been subject to interrogation by the American sociologist Richard Moran and academic, Daniel M. Robinson. In *Knowing Right from Wrong* (1981), Moran argues that the political significance of the McNaughten case has been sidelined in favour of viewing the assassination and subsequent 'rules' which emerged from the case in the legal context of debates about criminal responsibility and issues surrounding the insanity defence.<sup>15</sup> Tracing the political climate of the period, notably the rise of the Anti-Corn-Law League and Chartist agitation in McNaughten's home town of Glasgow, he argues that the assassination was politically motivated. In the depositions taken prior to the trial, McNaughten stated that he believed he was being persecuted by a Robert Lamond. Lamond, as Moran points out, was one of many Tory spies despatched across the country to report on the activities of the newly established Anti-Corn-Law League. Arguing that McNaughten was paid nearly £750 to murder Peel, Moran concludes that McNaughten's attack on Drummond was

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12 The *Weekly Chronicle* noted that upon his removal from Bow Street police station to Tothill Field's Bridewell to await sentencing, McNaughten 'appeared quite at ease; not, indeed, like a man charged with the dreadful crime of assassination'. *Weekly Chronicle*, 22 January, 1843, p.5.

13 Melbourne to Victoria, 2 February, 1843, Benson, *Letters of Queen Victoria*, I, p.576.

14 *Weekly Chronicle*, 28 January, 1843, p.2.

15 Much analysis has been given to the rules established on McNaughten's acquittal. See, for example, Richard Moran (special editor), *The Insanity Defense, The Annals of the American Academy of Political and Social Science*, 477 (January 1985).



in fact aimed at Peel and that far from a random attack, it was a well-organised Chartist plot.<sup>16</sup> Robinson concurs in this assessment.<sup>17</sup>

Despite their important interpretation of the case, neither Moran and Robinson, nor legal historians, go far enough in the examination of the socio-cultural climate surrounding the murder of Drummond, especially the popular understanding of rightful confinement.<sup>18</sup> Even a superficial perusal of the national and regional newspaper coverage of the McNaughten case indicates that the anxieties elicited by the murder extended far beyond political concerns. Many believed that the murder had cast a 'stigma' on the 'national character'.<sup>19</sup> *The Times*, for example, felt angered by the 'dreadful imputation' that England was fast becoming as violent as continental countries in the conduct of public life.<sup>20</sup> Yet equally, it could not escape the facts as they were presented by the murder:

Formerly it was our boast that the weapon of the assassin - exercised for ready gain in all Europe besides - was unknown [...] in England [...] But events that have occurred within the present century has disabused us of this cherished and exalted faith. The belief in the honour and manly courage of Englishmen is become as one of those ancient superstitions, the memory of which provokes a painful comparison between the past and present times.<sup>21</sup>

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16 Richard Moran, *Knowing Right From Wrong: The Insanity Defence of Daniel McNaughtan* (New York: The Free Press, 1981), p.45. A deposit receipt from the Glasgow and Shipping Bank for £745 was found on McNaughten when he was arrested. His defense counsel found it difficult to explain the sum, given that McNaughten was only a wood-turner by trade.

17 Daniel M. Robinson, *Wild Beasts & Idle Humours: The Insanity Defense from Antiquity to the Present* (Cambridge, MA: Harvard University Press, 1996), pp.163-171.

18 A chapter entitled 'What we thought about it all' by Alexander Walk in *Daniel McNaughton: His Trial and the Aftermath* is a compilation of various journal and newspaper responses to the crime and the debates it engendered. However, Walk does not analyze the excerpts, despite their important reflection of responses to debates over criminal insanity. See *Daniel McNaughton: His Trial and the Aftermath*, ed. by Donald J. West and Alexander Walk (Ashford: Gaskell Books, 1977), pp.113-128.

19 *Weekly Chronicle*, 28 January, 1843, p.4.

20 *The Times* lost no time in condemning the foreign influence from which the assassination was seen to emanate: 'We are yet, as a people, novices in copying the melodramatic massacres of Young France, and the LYNCH-lawlessness of Republican America. There is still enough shame and courage left - at least, we hope so - to arrest this mania of foreign growth, before it becomes too fierce and powerful to cope withal. Heaven grant that the masculine courage and honest sense of our countrymen may not be slack to redeem the tarnished reputation of our common land, laws, and faith!' *The Times*, 26 January, 1843, p.4. For an agonized account of the degradation of the English character, see also the *Illustrated London News* (January-June 1843), p.49.

21 *The Times*, 23 January, 1843, p.4.



Such a 'painful comparison' was not limited to national character. The two-day trial for the wilful murder of Drummond that followed in the first week of March, overseen by Sir Nicholas Conyngham Tindal, the chief justice of the commons pleas, was terminated by the judge. The jury found McNaughten not guilty on the ground of insanity.<sup>22</sup> Commenting on the case in 1855 in *Miscellanies: Critical, Imaginative, and Judicial*, Samuel Warren noted that the perceived 'escape of the cold-blooded murderer, M'Naughten [...] horrified and disgusted the public'.<sup>23</sup>

The angry reaction to the verdict is suggestive of the way in which lunatic asylums were popularly perceived in the mid-nineteenth century. Many felt that far from insane, McNaughten was a violent criminal who had used a plea of insanity to escape from the due retribution of the law. Unlike carceral punishment in a prison, the asylum was not perceived as a rehabilitative institution but rather as a site where McNaughten could simply pass his days in relative luxury.<sup>24</sup> The verdict was thus seen to provide law-breakers with an ideal model for evading punishment. The reactions elicited by the murder of Drummond and the trial and acquittal of McNaughten allow us to register popular perceptions of both the value and purpose of prisons and lunatic asylums. One of the primary issues centred on determining who should be protected, how, and from what exactly. Physicians argued that lunatics, like McNaughten, needed to be protected from themselves and others. The best place to treat and effect cure was the lunatic asylum.

Yet as Samuel Warren and others in the legal system (as well as many lay-public observers) argued, McNaughten had never denied murdering Drummond. There were witnesses to the assassination. Maintaining that McNaughten had feigned insanity, they argued that a miscarriage of justice had been witnessed. That he should escape 'condign punishment' was seen by the public as an example of perverse and unwarranted leniency. As Moran makes clear, there was general apprehension that the verdict might establish a new legal precedent.<sup>25</sup> The fact that the judicial

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22 On 13 March, 1843, McNaughten was removed from Newgate to Bethlehem Hospital at St. George's Field under an order from Sir James Graham. He was transferred to the newly constructed Broadmoor Criminal Lunatic Asylum on March 26, 1864, where he died of poor health on 3 May, 1865, aged 52.

23 Samuel Warren, *Miscellanies: Critical, Imaginative, and Judicial*, 2 vols (London: William Blackwood, 1855), II, p.117. After studying medicine in Edinburgh, Samuel Warren (1807-1877) was called to the bar in 1837. Throughout his life, his ambitions were literary rather than legal. Between 1830 and 1837, his 'Passages from the Diary of a Late Physician' appeared in *Blackwood's Edinburgh Magazine* and in 1841, *Ten Thousand a Year* was published in three volumes. He was appointed Master of Lunacy in 1859. See *DNB*, 59, pp.424-25.

24 Commentators on the McNaughten case pointed to the comfortable living conditions of Edward Oxford, who was also confined in Bethlehem after his attempted assassination of Queen Victoria in 1840. See, for example, 'The Conduct of Edward Oxford in Bethlem', *Glasgow Saturday Post*, 4 March, 1843, p.1.

25 Moran, *Knowing Right from Wrong*, p.2.



system was seen to have failed to protect the public and society at large was almost incomprehensible to those who had regarded the English legal system as fair and just.

The question of whether the legal system had degenerated from its humane and enlightened past drew intense debate. Warren, in particular, believed that the court's decision had failed the public. While acknowledging that the subject was one 'environed with immense practical difficulties, which are often unexpectedly visible in applying clear and correct principles to simple combinations of facts',<sup>26</sup> he remained clear as to where fault lay for the shocking verdict: the introduction to the court of medical men and their theory of 'uncontrollable impulse'. As the following section will demonstrate, McNaughten's defence counsel argued that his client committed the murder under the influence of homicidal monomania. To Warren, this was no more than a

sickly and spurious theory, which would place the innocent and virtuous entirely at the mercy of the most base and ruffianly impulses of our fallen nature. It would relax all the bonds of self-restraint, and afford a premium on the indulgence of ungovernable passions.<sup>27</sup>

The 1840s was<sup>a</sup> decade which witnessed dramatic legislative overhaul in the care and treatment of the insane. As with Philippe Pinel in France, the English profession of mental science had begun to strike the metaphorical and literal chains off the lunatic and replace them with moral kindness and fortitude. The lunatic was no longer seen as bestial but as a person who was ill and in need of treatment. For this development, physicians were beginning to be regarded with some degree of respect, and their profession was gaining the degree of authority over the insane they had long been fighting for (against both other professional bodies as well as apothecaries and charlatans). Although an authoritative medical interpretation of McNaughten's mental instability was successful within the courtroom, the public reaction to the verdict challenged the suggestion that the medical profession was best-qualified to interpret McNaughten's actions.

The popular belief in the advancement of mental science eroded very publicly. Their theories of insanity were 'dangerous and monstrous'.<sup>28</sup> With the murder itself, and the perceived failings of both the legal system and the profession of mental science, the upright and humane nature of the 'national character' was fast becoming an issue of real debate and consternation. No longer were the public confident in those who made the law and those who positioned themselves as protectors of society. It was for this reason that the common law judges were requested to attend a

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26 Warren, *Miscellanies*, II, p.115.

27 Warren, *Miscellanies*, II, p.159.

28 Warren, *Miscellanies*, II, p.117.



hearing at the House of Lords soon after the acquittal verdict to establish a set of new and hopefully more effective set of rules governing criminal responsibility. Unlike the medico-legal cases of Louisa Nottidge and William Frederick Windham later in the century, both of whom were threatened or confronted with incarceration in a lunatic asylum (like McNaughten, Nottidge was examined by physicians and declared to be suffering from delusions resulting from religious monomania), McNaughten's trial was a criminal rather than civil case, brought by the state rather than family members. Nevertheless, the case represents a formative point in time for both the status of the legal profession and for the profession of mental science in regard to popular perceptions of their roles and responsibilities. Importantly, it extended an awareness of the existence of, and confusions surrounding, partial forms of lunacy like monomania. Perhaps most importantly, in discussing the construction of anxieties over issues relating to wrongful confinement, the McNaughten trial provides a framework through which to examine the contested nature of *rightful* confinement.

ii. '[L]et us have no maudlin humanity or hysterical tenderness'<sup>29</sup>

Though Drummond was a well-respected man, faithful in the office of private secretary to a number of political luminaries, the sensational quality of the assassination and the immediate suggestion that Peel was the real target of McNaughten's bullet soon displaced sentimental regret at the loss of life of a civil servant. Far from being the preserve of nostalgic remembrance, 'maudlin humanity' and 'hysterical tenderness' were phrases employed by the *Standard* to warn their readers against holding too much sympathy for a man they believed to be no more than a 'savage murderer in intention'. It was an antagonistic position for the paper to take, especially as no-one knew at this early stage whether McNaughten was in fact a lunatic who had attempted to murder Drummond under the influence of irresistible impulses, or whether he was merely a violent criminal. In instructing its readers to be wary of adopting a merciful position, the paper explicitly encouraged an hysterical anger (despite declaring that McNaughten was as entitled as any accused person to have the full benefit of the law). Commenting after news of Drummond's death, *The Times* also hoped that

no undue exertion will be made by the soft-hearted to twist and torture unimportant incidents into symptoms of insanity - that no over-refined humanity will endeavour to argue back the crime itself into a proof of madness [...] that no maudlin sensitiveness will lift up its plaintive voice to rescue the convicted felon from the doom which a justice higher than man's has pronounced against him by whom man's blood has been shed.<sup>30</sup>

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<sup>29</sup> *Standard*, 23 January, 1843, p.2.

<sup>30</sup> *The Times*, 26 January, 1843, p.4.



Yet not all papers sardonically advised their readers to renounce compassion for McNaughten. Far from a 'savage murderer', the *Illustrated London News* desired that its readers sympathetically view McNaughten as a 'wretched man'. Sentimentally pleading for mercy not vengeance, the tone and language (of maudlin humanity and hysterical tenderness) that the leader used was in striking opposition to that of the *Standard*:

If he be really mad - if reason is shut out from his brain - if his heart is blind - his mind sadly and hopelessly incoherent, irresponsible, and void of all thought - his soul darkened and prostrate under an Almighty affliction - it is not for man to dole forth retribution unto such as him. Pity, more than punishment, may be laid at his door.<sup>31</sup>

The antithetical positions on McNaughten encapsulate the fundamental question which preoccupied everyone: was McNaughten mad or bad? Despite the 'over-refined humanity' expressed by the *Illustrated London News* (directed precisely to the 'soft-hearted' reading-public), many believed that McNaughten had deliberately feigned insanity in order to escape punishment.<sup>32</sup> Even the *Illustrated London News* had to acknowledge that this was a possibility:

But if he prove a gloomy-hearted criminal, and has done this murder as a foul and black assassin [...] [s]hall we get up the false cry of insanity to stay the arm of Justice - the sword of God? [...] We do not wish to throw the colour of wild approval over the fearful punishment of death - God Forbid! - but we do earnestly wish to check the false mercy of misconstruction which writes *mad* instead of *bad*, and is content to call that criminal a maniac who is nothing better than a fiend.<sup>33</sup>

To save the 'reproach of having nurtured such an atrocious villain', a writer in the *Glasgow Herald* hoped that McNaughten had committed the murder under the influence of insanity.<sup>34</sup> The *Glasgow Saturday Post* agreed: 'To us it seems immaterial whether insanity be self-engendered or otherwise. It is enough to justify acquittal of a crime that the party be, beyond all doubt,

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31 *Illustrated London News* (January-June 1843), p.49.

32 Responding to recent publicity about an open day 'fancy fair' at the Middlesex County Lunatic Asylum, Hanwell, one observer believed that the murder was linked to McNaughten's desire to attend the institution's 'balls and entertainments'. *Standard*, 25 January, 1843, p.3. In 1839, nine years after it was established, John Conolly was appointed Hanwell's resident physician superintendent. He immediately replaced mechanical restraints with a humane system of moral management. Conolly was the object of acclaim for his role in transforming the care and treatment of the lunatic. See chapter on Conolly in *Masters of Bedlam*, pp.48-83. On moral management see Scull, *Social Order*, pp.80-94.

33 *Illustrated London News* (January-June 1843), p.49.

34 *Glasgow Herald*, 27 January, 1843, p.2.



unaccountable for his actions'.<sup>35</sup> However like the *Standard*, the *Weekly Chronicle* was suspicious of McNaughten's apparent insanity. 'From close personal observation with the prisoner', the paper recorded, it was not misleading in 'stating that he is most undoubtedly in a sound state of mind'. Though 'his cheeks were sunken and his eye was wild and restless; beyond this he exhibited no symptoms that could be construed even into incipient insanity'.<sup>36</sup> He in fact held the innocent appearance of a 'decent mechanic'. Even if it was found that the assassin was of unsound mind, 'still the danger is not the less to the sane'.<sup>37</sup>

Underpinning such comments lay an anxiety about deterrence and punishment. The *Standard* believed that criminal impulses could and should be repressed, be it in criminals or lunatics. No-one, the paper suggested, was 'so utterly devoid of moral and reasoning faculties as to be impervious to the efficacy of proper punishment'. This argument was reiterated by 'Protection', writing to *The Times* on 30 January:

Are all persons in high stations to walk about in peril of their lives, because our laws think a mad-man's life of more value than theirs? If a sane man can be restrained from crime by fear, why are we to suppose that fear [of punishment] will have no influence in restraining those who are only half-cracked?<sup>38</sup>

In a succinctly written leader in the *Morning Chronicle* on the same day that 'Protection' wrote to *The Times*, these issues were discussed. Prior to the campaigns of Sir Samuel Romilly in the first decade of the nineteenth century to reform the criminal code and specifically to abolish the death penalty for the crime of picking pockets (of goods to the value of twelve pence)<sup>39</sup>, and the 'changes in the public mind' that they effected, the 'sanguinary character of our penal law had its natural influence on the character of the people'.<sup>40</sup> Now though, the paper suggested, 'a morbid humanity has taken the most atrocious crimes under its protection'.<sup>41</sup>

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<sup>35</sup> *Glasgow Saturday Post*, 18 March, 1843, p.1.

<sup>36</sup> *Weekly Chronicle*, 22 January, 1843, p.5.

<sup>37</sup> *Standard*, 26 January, 1843, p.1.

<sup>38</sup> *The Times*, 30 January, 1843, p.5.

<sup>39</sup> Romilly (1757-1818) also persuaded the House of Commons to accept transportation for life rather than hanging as the punishment for pick-pockets. See Michael Ignatieff, *A Just Measure of Pain: The Penitentiary in the Industrial Revolution, 1750-1850* (London: Penguin Books, 1989).

<sup>40</sup> *Morning Chronicle*, 30 January, 1843, p.2.

<sup>41</sup> On the dismantling of a reformatory penal system and its replacement in the early 1860s with a punitive model of convict treatment, see Jennifer Davis, 'The London Garotting Panic of 1862: A Moral Panic and the Creation of a Criminal Class in mid-Victorian England', in *Crime and the Law:*



'By pushing humanity too far, we may in reality be encouraging inhumanity', the *Morning Chronicle* reminded its readers, noting that the sole object of the McNaughten trial was to establish secure penal parameters to adequately protect society. The fear expressed by the *Standard*, 'Protection', and by the *Morning Chronicle* was that the diminishment of severe verdicts (resulting from the public horror of capital punishment) might be taken too far. By affording 'encouragement to bloodshed'<sup>42</sup> the issue was one of vital importance to society as a whole. The prosecuting Solicitor-General, Sir William Webb-Follet, agreed with such sentiments and argued in court that McNaughten *should* be subject to punishment - both to deter imitators and to protect the public from further potentially murderous outbursts. He argued that too much time and thought had gone into the assassination attempt for McNaughten to be suffering from an uncontrollable impulse. Yet this was exactly the position taken by McNaughten's defence counsel, the barrister Alexander Cockburn. He argued that his client could not be found guilty of the crime because he was partially insane. Because he had suffered from criminal monomania, deterrence was not an issue. To Webb-Follet, McNaughten was 'bad'; to Cockburn, he was 'mad'. Yet as the *Morning Chronicle* also pointed out:

From monomania up to the wildest frenzy there are an infinity of gradations: and it not only becomes of importance to consider how far the individual committing a criminal act is conscious of wrong, but also how the punishment may affect those who may labour under different kinds of insanity.<sup>43</sup>

### *iii. The trial*

On Friday 3 March, 1843, the Central Criminal Court at the Old Bailey was packed. The number of people seeking admission was 'enormous', and having been anticipated, the 'precautions taken by the sheriffs were proportionally strict, and the difficulty of getting even to the outer doors was unprecedentedly great'. The display of wigs and gowns, the paper continued, was unequalled since the trial of Daniel Good.<sup>44</sup> When the barristers took their seats and the jury was sworn in, there was a 'Babel-like scene of confusion' as the public tried to crowd in to the court. After Chief Justice Tindal entered the courtroom, the prisoner was brought to the bar to hear the indictment

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*The Social History of Crime in Western Europe since 1500*, ed. by V.A.C. Gatrell, Bruce Lenman and Geoffrey Parker (London: Europa Publications, 1980), pp.190-213.

<sup>42</sup> *Morning Chronicle*, 30 January, 1843, p.2.

<sup>43</sup> *Morning Chronicle*, 30 January, 1843, p.2.

<sup>44</sup> *Morning Chronicle*, 4 March, 1843, p.7. Daniel Good was a London coachman who was found guilty of brutally murdering his mistress. He was executed in 1842. See Thomas Boyle, *Black Swine in the Sewers of Hampstead: beneath the surface of Victorian sensationalism* (London: Viking, 1989), pp.55-58.



read for the wilful murder of Edward Drummond. '[G]ently and clearly' he entered a plea of not guilty.

Webb-Follett, counsel for the prosecution, began his case against McNaughten by establishing that Drummond had been shot near the Salopian Coffee House, near Charing Cross, on 20 January. In his opening statement, Webb-Follett emphasised to the jury that public safety was the object of all law. To counter what he presumed would be the key defence strategy of Cockburn (that McNaughten was insane to the degree that he was not a responsible agent and so not answerable to the laws of his country), Webb-Follett suggested that in disavowing the importance of public safety, Cockburn's argument 'should not be too readily listened to'.<sup>45</sup> Because insanity 'assumes such different forms and such various shapes, and acts in such opposite ways, that you cannot define it' (p.4), Webb-Follett indicated that it was not sufficient to excuse McNaughten on the grounds of partial insanity.

One of his central tactics was to employ the definition of insanity made by Sir Matthew Hale, Lord Chief Justice of England, in *History of the Pleas of the Crown* (1736). Hale added to Sir Edward Coke's definition of insanity the possibility that the criminal might be lucid at the time of the trial but that the onus was on him to show that the crime had not been committed during a lucid period (thus accepting that partial insanity existed). Webb-Follett employed Hale's distinction between partial and total insanity in order to show that because McNaughten was partially *sane*, he could distinguish between right and wrong and so should be found guilty of murder. The Solicitor-General also employed Erskine's formative construction of delusion and 'motives irresistible' (which he successfully used in the case of Hadfield in 1800) to show that his definition of delusion in regard to criminal responsibility was simultaneously too broad and too small. Even though a 'party may have that state of mind which would render him wholly unconscious of right and wrong [...] [and though] he may have that state of mind which makes him not aware that he is committing a crime [...] the crime may not be the offspring of any delusion he labours under'. (p.7) Webb-Follett relied heavily upon Lord Chief Justice Mansfield's guilty verdict in the trial of John Bellingham in 1812.<sup>46</sup> The similarities between the Perceval and Drummond murders were striking and could not have failed to produce an impression on the jury.

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45 Richard M. Bousfield and Richard Merret, *Report of the Trial of Daniel M'Naughton at the Central Criminal Court, Old Bailey*, (London: Henry Renshaw, 1843), p.3. Further page references are contained within the text.

46 In 1812 John Bellingham shot and killed Spencer Perceval, the Prime Minister (and previously Chancellor of the Exchequer) in the lobby of the House of Commons. Against Bellingham's wishes, his defence counsel argued that he committed the murder while suffering from temporary insanity. Bellingham was found guilty. *The Times* reflected in 1843 that it had been adequately proven that Bellingham had come up to London by himself, had never been under restraint, had never been attended by a medical man and 'was perfectly regular in all his habits'. There was 'not one proof adduced to show that his understanding was so deranged as not to enable him to know that murder



Webb-Follett then moved away from legal precedents to establish details of the defendant's life. He highlighted the fact that McNaughten appeared to have been of sober habits and had saved a considerable sum of money while living in Glasgow and plying his trade as a wood-turner. He had even attended lectures on natural philosophy and anatomy at the Mechanics' Institute. The purpose of drawing the jury's attention to such details was to reinforce the idea that McNaughten was sane and that the crime was premeditated. Policemen and soldiers testifying for the prosecution explained that they had seen McNaughten loitering both at Whitehall and at Downing Street (suggesting premeditation), and the curator of the Mechanics' Institute testified to McNaughten's industrious nature. By the end of the first day of the trial, the jury were left with a formidable picture of McNaughten's rationality, sanity, and thus guilt.

The second and final day of the trial commenced with Cockburn's opening speech on behalf of McNaughten. Cockburn began by acknowledging what a sensation the crime had produced, even within 'the remotest confines of this extensive empire'(p.22).<sup>47</sup> Yet in focusing on the nature of the crime itself and the stature of the victim, such attention was dangerous for it gave rise to a desire for vengeance in the form of 'a wild and merciless cry for blood'(p.22). Cockburn desired that attention should be refocused on his client, a man who had shot Drummond under the influence of a monomaniacal instinct which had been led on by 'fierce and fearful delusion'(p.24). He explained to the jury that he would prove that McNaughten was partially insane. For this reason, his client could not be held morally or legally responsible for his crime. Yet to argue that partial insanity fell under legal directives for the existence of insanity and to convince the jury that this fact negated criminal intention and thus a guilty verdict, was simply too risky a strategy for the defence counsel.<sup>48</sup>

In light of Webb-Follett's focus upon McNaughten's sanity, Cockburn focused his defence on the corruption of his client's *moral* affections. His client's uncontrollable delusions had temporarily deprived him of 'moral liberty'(p.59). Cockburn was acutely conscious of Webb-Follett's continued emphasis on the necessity of protecting society and the 'public safety'. With this in mind, he did not dispute the fact that the 'very nature of this disease necessitates the seclusion of those who are its victims from the rest of the world'(p.24). Rather, Cockburn deliberately positioned McNaughten as himself a victim of his insanity, 'cut off from the rest of mankind like the lepers of old'(p.25). Central to his strategy was the employment of expert

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was a crime'. *The Times*, 28 January, 1843, p.5. Bellingham was convicted of murder and executed. Significantly, despite the claim of his counsel, no medical evidence was given in Bellingham's defence. See Robinson, *Wild Beasts*, pp.152-154.

47 The news (albeit incorrect news) of the murder soon reached Australia. The *New South Wales Magazine* reported that a man named 'Nugent' had shot at Drummond in a deranged fit. *New South Wales Magazine*, (July 1843), p.363.

48 Walker, *Crime and Insanity in England*, I, p.92.



medical witnesses. In order to challenge the public perception of McNaughten as a 'cold-blooded' murderer, Cockburn first offered to the jury a vision of the advances that the profession of mental science had made in regard to lunacy.

In much the same way as the *Illustrated London News* had done before the outset of the trial, Cockburn employed overtly sentimental language to establish in the minds of the jury the skill, expertise and enlightened humanity of the psychological physician:

Thank God, at last - though but at last - humanity and wisdom have penetrated, hand in hand, into the dreary abodes of these miserable beings, and whilst the one has poured the balm of consolation into the bosoms of the afflicted, the other has held the light of science over our hitherto imperfect knowledge of this disease, has ascertained its varying character, and marked its shadowy boundaries, and taught us how, in gentleness and mercy, best to minister to the relief and restoration of the sufferer! (p.25)

To reinforce the suggestion that many of the ancient legal arguments and definitions of insanity simply did not hold true in relation to the advances that mental science had made, particularly in conceiving insanity as a defect of will and emotion as well as in intellect, Cockburn employed the arguments of a young American physician, Isaac Ray (1807-1881), set out in his *Treatise on Medical Jurisprudence* (1838). Ray believed wholeheartedly in the necessity for expert diagnosis in order to distinguish crime from insanity. He also believed that courts should establish a simple rule that no act perpetrated by an insane person should be punished as a crime. Here Cockburn was directly challenging the 'wild beast' standard of criminal responsibility, formulated by Judge Tracy in the case of *Rex v. Arnold* in 1723.

Though 'mad Ned' Arnold was found guilty of shooting and wounding Lord Onslow, the case enabled the courts to absolve a person of legal responsibility for his actions only if he could be shown to be *totally* deranged and without the use of his reason. Quoting the further case of a man named Bowler, who had been tried for shooting a Mr. Burrows in 1812 and who had been found guilty (despite being found insane during a commission of lunacy inquiry), Cockburn entreated the jury 'to let the error in that case [...] operate as a warning to you not to be carried away headlong by antiquated maxims or delusive doctrines' (p.27). Though Webb-Follett turned to Erskine in order to point out the fallacy of his argument, Cockburn saw him as 'great light' (p.38) for his understanding of delusion as the true test of insanity. Like Erskine, Cockburn attempted to demonstrate that McNaughten had committed the wilful murder of Drummond while suffering under delusions in which, like Bellingham, he believed he was being persecuted by group of politicians, policemen and catholic priests. 'Willful' he deliberately made clear to the jury, suggested the 'necessary moral sense that guides and directs the volition, acting on it through the medium of reason' (p.36).

Cockburn thus argued that a man might on many points be sane, but nevertheless be rendered wholly incompetent to resist 'some impulse so irresistibly strong so as to annihilate all



possibility of self-dominion or resistance' (p.45). Having established the problems inherent upon relying on ancient laws and rulings, the skill of present-day physicians and the absolute necessity for their expert intervention, as well as the possibility that a delusion can exist in a person who in many other respects is sane, he traced McNaughten's personal history. Unlike his counterpart, who stated the case for the prosecution in 'that calm and colourless manner [...] free from all rhetorical ornaments [...] distinct, simple, forcible',<sup>49</sup> Cockburn appealed directly to the mercy of the jury by sentimentally positioning his client as sensitive and kind, a humble but honest working-class man.

As a young adult, for example, McNaughten had become increasingly gloomy and reserved, yet continued to give crumbs to birds and watch children play; acts that did not accord with the ferocity of an assassin. As several witnesses for the prosecution had testified, McNaughten had trouble sleeping in the months leading up to the murder. To Webb-Follet such pacing in his room at night was indicative of his obsession with murdering Drummond (or Peel). To Cockburn, it was indicative of his insane delusion; McNaughten had been denied 'sweet sleep', a privilege that was the 'birthright and inheritance of the working man - the reward of the humbler portion of society - the blessing which nature gives them to counterbalance the disadvantages of their condition' (p.46). In countering the suggestion that the murder was politically motivated, Cockburn simply asked the jury whether McNaughten was 'shown to have taken a strong and active part in political matters? Did he attend political meetings? Is he shown to be a man of ill-guided, strong, and enthusiastic political sentiments? There is not a tittle of evidence on that subject' (p.54).

*iv. 'The jargon of the shop!'*

At this stage in the proceedings, Cockburn turned to his medical witnesses, 'men of intelligence, experience, skill, and undoubted probity' (p.24) who would declare McNaughten the 'creature of a delusion, and the victim of ungovernable impulses, which wholly take away from him the character of a reasonable and responsible being' (p.24). He believed that their evidence would force the jury to conclude that McNaughten's perverted moral affections had rendered him incapable of resisting the impulse to murder and so find in favour of acquittal. Prior to their evidence, Cockburn made a point of reminding the jury that though they could not punish the prisoner for an offence committed at a time when he was unconscious of wrong, they *did* have the power (provided by the 'mercy of the law') to request that McNaughten be placed in a lunatic asylum, where 'he will be protected from the consequences of his own delusions, and society will be secured from the danger

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49 William C. Townsend, *Modern State Trials, Revised and Illustrated*, 2 vols (London: Longman, Brown, Green, and Longmans, 1850), I, p.326.



of his acts' (p.60). Without this legal stricture, he knew that his client would be found guilty of wilful murder.

The first medical witness was Dr E. J. Monro, a physician who had interviewed McNaughten on 18 February while he was held at Newgate Prison. Monro testified that McNaughten's moral sense had been perverted. He was, the physician believed, so absorbed by the contemplation of a fancied wrong that his mind was unable to distinguish between right and wrong. The monomaniacal delusions were 'real' and

the act with which he was charged, coupled with the history of his past life, left not the remotest doubt [...] [of] the presence of insanity sufficient to deprive the prisoner of all self-control. (p.68)

Sir Alexander Morison, the author of *Physiognomy of Mental Diseases* (1838) and founder in 1842 of the Society for Improving the Condition of the Insane<sup>50</sup>, and the third medical witness, Mr McClure, a surgeon living in Harley Street were equally convinced that McNaughten's moral perceptions were impaired. Five further medical witnesses were called including a surgeon at Guy's Hospital, Mr Aston Key, and Dr Forbes Benignus Winslow, editor of the *Journal of Psychological Medicine and Mental Pathology* and author of *Plea of Insanity in Criminal Cases* (1843). Though the testimony of McClure and Winslow was based on observation during the trial itself rather than on a formal examination of the defendant (their evidence was disputed by the prosecution), Winslow expressed the opinion of all of the medical witnesses in arguing that McNaughten was insane because he had 'committed the offence in question whilst afflicted with a delusion' (p.73).

Judge Tindal then asked Webb-Follet whether he had medical witnesses that could testify to the defendant's sanity. On replying that he didn't, Tindal concluded that 'the evidence, especially of the last two medical gentlemen who have been examined, and who are strangers to both sides, and only observers of the case, to be very strong, and sufficient to induce my learned brother to stop the case' (p.73). After further stating that there was 'no part of it which leaves doubt on my mind' (p.74), the jury brought back a special verdict, 'NOT GUILTY on the grounds of insanity'.<sup>51</sup> After the abrupt end of the case, three interrelated anxieties over the verdict became all-pervasive in journals and in the press. Firstly, the emergence of monomania as a medical condition and the use of it in criminal trials was perceived to enable criminals to escape

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<sup>50</sup> See chapter on Morison in *Masters of Bedlam*, pp.123-160.

<sup>51</sup> The trial generated intense interest, especially from phrenologists. In an address to Lord Brougham, J. Q. Rumball argued that McNaughten should be found not guilty because of the phrenological proofs of his disease. J. Q. Rumball, *M'Naughten. A Letter to the Lord Chancellor, upon Insanity*, 2nd edn (London: J. Churchill, 1843). See also James George Davey, *Medicolegal Reflections on the Trial of Daniel M'Naughten* (London: Ballière, 1843) and the review of Davey's *Reflections* in *Zoist: A Journal of Cerebral Physiology and Mesmerism*, I (March 1843 - January 1844), pp.397-99.



punishment. Secondly, the emergence of psychological physicians in courts of law and the esteem with which they were accorded, evidence of the growing authority of science to exculpate guilt, was seen as a development which threatened the judicial system by undermining its legal sanctions.<sup>52</sup> Thirdly, dangers were read into the sentimentally excessive rhetoric employed by Cockburn, contributing to a growing conviction that society was ironically threatened by its own humanity and seemingly enlightened sensibility.

In his essay entitled 'Manie Homicide' in the *Dictionnaire des sciences médicales* (1818), J.E.D. Esquirol (1773-1840), a young French physician, expressed mistrust of a form of insanity in which the intellect was unimpaired: 'But does there really exist a mania', he asked, 'in which patients who labour under it preserve their reason intact, whilst they abandon themselves to the most condemnable actions? Is there a pathological state in which man is irresistibly impelled to commit an act which his conscience condemns? I do not believe it'.<sup>53</sup> Yet in *Des maladies mentales* (1838), he recanted such a denial in favour of what clinical observations proved *was* the existence of such a malady.<sup>54</sup>

Monomania, Esquirol's contribution to medical nomenclature, was a condition which encompassed 'all the mysterious anomalies of sensibility, all the phenomena of the human understanding, all the consequences of the perversion of our natural inclinations, and all the errors of our passions'.<sup>55</sup> It was characterised by a *partial* lesion of the understanding. It was a form of delirium which was limited to a single or a small number of objects in which the sufferer would 'seize upon a false principle, which they [would] [...] pursue without deviating from logical reasonings, and from which they deduce legitimate consequences' (p.320). Importantly, monomaniacs were not deprived of the use of their reason, but their moral affections and dispositions were fundamentally perverted. Attentive 'to the role of a pristine and specialized vocabulary in establishing scientific authority',<sup>56</sup> Esquirol hoped that the enhanced specificity of

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<sup>52</sup> Weiner, *Reconstructing the Criminal*, p.87.

<sup>53</sup> D. Hack Tuke, *Prichard and Symonds in Especial Relation to Mental Science with chapters on Moral Insanity* (London: J. & A. Churchill, 1891), pp.16-17.

<sup>54</sup> At the turn of the century, Esquirol was one of Pinel's students on the clinical instruction course at the Salpêtrière. Though from different socio-economic backgrounds, they developed a close friendship. Whereas Pinel's patronal role was characterized by unused opportunity, Esquirol was forceful in formulating and achieving his aims. As such, he played a formative role in the institutionalization of French psychiatry and in the professionalisation of physicians. See Goldstein, *Console*, pp.128-132.

<sup>55</sup> J. E. D. Esquirol, *Mental Maladies, A Treatise on Insanity*, trans. by E. K. Hunt (Philadelphia: Lea & Blanchard, 1845), p.200. Further page references are contained within the text.

<sup>56</sup> Goldstein, *Console*, p.156.



linguistic classification to include his three subdivisions of monomania (intellectual, affective, and instinctive) would lead to a clearer understanding of madness and in turn, greater effectiveness in its treatment and prevention. Yet Esquirol's inclusion of monomania into the traditional nosological framework was both challenging and threatening to the profession's established categorization of mental derangement. The apparent breach of the distinction between moral depravity and mental incapacity, demanded by the extension of classificatory systems to include monomania, affected the medical profession in several ways and as the following chapters will demonstrate, were central to debates about wrongful confinement in England throughout the nineteenth century.

A deepening confusion over what exactly constituted insanity and how it should be treated was at the centre of the clash between the profession of mental science and the public over the newly emerging theory of monomania in England in the 1840s. Commenting on the McNaughten case several years later, the *Journal of Psychological Medicine and Mental Pathology* reprinted an extract from Sir George Stephen's 'Juryman's Guide' in order to illustrate 'the opinion of an intelligent jurist on the plea of monomania in criminal cases'<sup>57</sup>:

we cannot attribute all the fuss that has been made about monomania [...] to any new lights that have been thrown on the nature of structure of the mind. We are far more inclined to ascribe it to that sickly humanity for which our juries have latterly become proverbial, and which generally has crept more into fashion than quite becomes the sturdy manliness for which our countrymen have long been celebrated.<sup>58</sup>

The emergence of monomania represented no more than the 'latitude of definition which medical men were apt to attribute to the notion of insanity'.<sup>59</sup> Unsurprisingly, the *Standard* was not hesitant to voice apprehension. The fault, the paper believed, lay in 'permitting the "mad doctors" to dictate the law, and in allowing too much weight to their crude, and, we must say, absurd opinions in their own department of knowledge. (If they really know anything)'.<sup>60</sup>

Despite previously expressing generosity towards the 'wretched man', the *Illustrated London News* was one of many journals to now express dissatisfaction with the fact that insanity was so readily admitted and

with so little qualification [...] and that a verdict to that effect should invest the criminal with a protection which the community at large regard as being fraught with danger to its

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<sup>57</sup> *JPMMP*, 1 (1848), p.485.

<sup>58</sup> *JPMMP*, 1 (1848), p.485.

<sup>59</sup> Walker, *Crime and Insanity*, I, p.97.

<sup>60</sup> *Standard*, 7 March, 1843, p.5. See also *The Times*, 9 March, 1843, p.6.



own personal security [...] The cry, upon the recent acquittal of M'Naughten, is, almost everywhere, "who after this is safe?"<sup>61</sup>

A common sentiment was that the public were now at the mercy of either unscrupulous criminals feigning insanity or lunatics whom the court had set loose upon society. A Mr. T. Campbell expressed the tenor of the public's outraged response to the acquittal of McNaughten in an amusing poem which was reprinted in several national journals:

#### CONGRATULATIONS ON A LATE ACQUITTAL

Ye people of England! exult and be glad,  
 For ye're now at the will of the merciless mad.  
 Why say ye that but three authorities reign -  
 Crown, Commons, and Lords? - You omit the insane!  
 They're a privileg'd class, whom no statute controls,  
 And their murderous charter exists in their souls.  
 Do they wish to spill blood - they have only to play  
 A few pranks - get asylum'd a month and a day -  
 Then heigh! to escape from the mad-doctor's keys,  
 and to pistol or stab whomsoever they please.  
 Now the dog has a human-like wit - in creation  
 He resembles most nearly our own generation:  
 Then if madmen for murder escape with impunity,  
 why deny a poor dog the same noble immunity?  
 So, if dog or man bite you, beware being nettled,  
 For crime is no crime - when the mind is unsettled.<sup>62</sup>

Campbell was one of many to denigrate this new form of 'partial' madness. One observer at McNaughten's trial took up the discussion over whether the notion of impunity was an incentive to crime in the insane. 'W.B.G.' offered the following solution to the problem raised by impunity: 'I think that the safest and best course the legislature could adopt would be to punish the *insane* as well as the *sane*, then there will be no occasion to legislate for *confining persons for life* who are subject to these morbid delusions. Make an example of the next case, and we shall not hear of *monomaniasm* again'.<sup>63</sup>

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61 *Illustrated London News* (January-June, 1843), p.163.

62 *The Times*, 8 March, 1843, p.5.

63 *Morning Chronicle*, 11 March, 1843, p.6.



It was hoped by one anonymous poet, 'Dry Nurse', that the 'Monomania epidemic'<sup>64</sup> would be subdued by his rhymes. Published in 1843, 'Monomania' captured the public concern with partial insanity by making the point that physicians who argued for the existence of monomania were making it implausibly easy for murderers to declare insanity and so suffer no true retribution for their crimes. It was madness, 'Dry Nurse' thought, to 'set up human laws 'gainst laws divine':

This legal murder. - I would simply ask,  
And let the doctors answer, if they dare;  
Let them cast off the poor and paltry mask -  
The jargon of the shop! - to make men stare:  
Tell me, ye judges of our mortal sins,  
Where madness ends, and sanity begins? (p.10)

Believing monomania a 'fashion', anger was most forcefully directed at two fictitious 'learned doctors, Dunderhead and Fool' (p.40), men to whom '[l]awyers and judges, the supreme concoctors / In legal knowledge, knuckle[d]' (p.2). While the poem amusingly makes reference to the absurdity of mesmeric passes and to the decline of worldly wisdom, its anxiety about the 'novel passion' (p.40) of monomania and particularly the part played by the physicians who authorised it, remains forcefully articulated. Such physicians, the author reflects, were in the past 'not subpoe'd, to shield and knave / From common justice, righteous retribution - / By flimsy, barefaced artifice, to save / A brutal murderer from execution - / To prove him mad, who'd ne'er been heard to rave' (p.54). But in these 'degenerate times' (p.13), 'Dry Nurse' conjectured, any 'fool may slaughter me or you' (p.2). In presenting an image to his readers of 'pseudo maniacs infesting the earth' (p.20), 'Dry Nurse' (like Campbell) played artfully on public concerns about insanity and the manipulation of '[l]aws of England! 'pillars of the state! / Framed to protect the innocent and the good' (p.2). Using the poet's right to inculcate a serious truth in the tone of a pleasantry, the verses of Campbell and 'Dry Nurse' contributed to the public feeling that legislative changes were of vital necessity. Such changes were important to all for they involved 'on the one hand the liberty of the subject, on the other the security of the community'.<sup>65</sup>

One particular problem facing physicians within the field of mental science was that the public not only reviled their authority to diagnose insanity, but believed lunatic asylums to be far from institutions with specific and serious medical and disciplinary directives. Rather, they were seen merely as safe havens from the retribution that the law should rightly have dispensed. Bethlem Asylum for the Criminally Insane, in particular, was mentioned in several letters to *The Times* on

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64 'Dry Nurse', *Monomania* (London: Saunders and Otley, 1843), p.v. Further page references are contained within the text.

65 *Illustrated London News* (January-June, 1843), p.179.





7 March. 'Killing no Murder' sardonically wrote of a 'pet project' involving 'some degree of violence' but stated that he would 'retain beforehand some of the most eminent medical men of the day as witnesses in proof of my monomaniacal possession'.<sup>66</sup> He continued:

I hope, through the assistance of your journal, to ascertain when the public [...] are sufficiently tranquilized to render it safe and expedient for a British court of justice and a British jury to reward my perseverance with a comfortable and permanent abode in Bethlehem Hospital at the expense of the nation.<sup>67</sup>

'Laicus Londinensis' was equally disparaging. Bethlem was an asylum in which McNaughten would be 'better kept and treated than his situation in life ever permitted before, and there [would] be visited, and have his picture taken, and his autograph solicited by foolish people who have nothing else to do'.<sup>68</sup> While the *General Report of the Royal Hospitals of Bridewell and Bethlem* for the year ending 31 December 1843 makes no mention of visits, there was no doubt that by the mid-1840s, treatment underpinned by faith in moral management had been fully implemented at the Hospital. The Report detailed the success of various trades (carpentry, gardening, masonry) and amusements (library facilities, chess, draughts, cards and backgammon). Even the department for criminals into which McNaughten had been removed was in the process of constructing workshops and a reading room.<sup>69</sup>

Despite the *Standard's* entreaty to its readers in January 1843 not to be influenced by 'maudlin humanity' and 'hysterical tenderness', the jury were influenced by Cockburn's convincing argument and the 'sickly humanity' of the 'soft-hearted' prevailed. This anxiety - the erosion of the country's 'sturdy manliness' in the face of excessive and humane sentiment - was conceived of in terms not dissimilar to the earlier concern about the murder itself engendering the erosion of the 'national character'. The general public were alarmed at the apparent ease with which a dangerous assassin could be found innocent. The law lords were equally concerned by what they perceived to be a crucial defect in English criminal law, brought to light not least by the employment of such difficult terms as partial insanity and homicidal monomania, and the immense difficulties that such diagnoses presented in drawing a line between sanity and insanity. As the

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<sup>66</sup> *The Times*, 7 March, 1843, p.5.

<sup>67</sup> *The Times*, 7 March, 1843, p.5.

<sup>68</sup> *The Times*, 7 March, 1843, p.5.

<sup>69</sup> *General Report of the Royal Hospitals of Bridewell and Bethlem, and of the House of Occupations for the year ending 31st December, 1843* (London: A. Spottiswoode, 1843), p.58.



*Glasgow Saturday Post* simply put it, '[w]e only want to know, for the benefit of simple folks, what in future is to be considered sanity?'<sup>70</sup>

The public believed that the test for criminal responsibility, the jury's decision, and the medical profession had each failed them; almost everyone expressed the 'common conviction that the law cannot be suffered to remain as M'Naughten's acquittal has left it'.<sup>71</sup> A debate ensued in the House of Commons regarding the problems presented by the McNaughten case in regard to the proper judicial relationship between insanity and criminal responsibility. One Irish Baronet, Sir Valentine Blake, moved for leave to bring in a bill to abolish the plea of insanity in cases of murder except where it could be proved that the defendant was 'publicly known and reputed to be a maniac, and not afflicted with *partial* insanity only'.<sup>72</sup> Despite his best efforts (asking the House to suspend the standing orders in order to accelerate the process of the bill), he received no seconder. The law lords were similarly unsettled. While it was clearly difficult to convict persons who were not in a state of mind to be responsible for their actions, Lord Campbell expressed the opinion of many when he argued that it remained 'monstrous to think that society should be exposed to the dreadful dangers to which it is at present liable, from persons in that state of mind going at large'.<sup>73</sup>

On the suggestion of the Lord Chancellor, Lord Lyndhurst, it was agreed that the judges of the Queen's Bench should be called upon to declare the true state of the criminal law on this matter. For this purpose, they framed a series of questions answers for which were to set contentious medico-legal precedents throughout the middle of the nineteenth century.<sup>74</sup> Five questions were put to the judges: What was the law respecting alleged crimes committed by persons with insane delusions? What were the proper questions to be put to the jury when insanity was employed as a defence? What terms should be left to the jury regarding the defendant's state of mind when the act was committed? Should the defendant be excused if he or she was acting under an insane delusion? And should a physician be asked his opinion even if he had never seen the defendant prior to the trial? This last question was asked in response to the public outrage that had ensued upon Winslow being called to the stand to testify to McNaughten's mental state despite not officially having examined him. As a leader in *The Times* makes clear, such a move had

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<sup>70</sup> *Glasgow Saturday Post*, 18 March, 1843, p.1.

<sup>71</sup> *Standard*, 7 March, 1843, p.2.

<sup>72</sup> *A Dictionary of Psychological Medicine*, ed. by D. Hack Tuke, 2 vols (London: J.& A. Churchill, 1892), I, p.309.

<sup>73</sup> Lord Campbell quoted in Warren, *Miscellanies*, II, p.118.

<sup>74</sup> For an extensive account of the parliamentary debate see Hack Tuke, *A Dictionary of Psychological Medicine*, I, pp.308-320.



weakened the distinctions between the rights of the jury as contradistinguished from the responsibilities of witnesses.<sup>75</sup>

The Lords' response to this last question was that physicians could not strictly be asked their opinions because it was the responsibility of the jury to determine the facts of the case. Though in established issues of science their authority might be called upon, it did not remain a matter of right. In concluding, notwithstanding the instruction to juries that in all cases the accused was to be considered sane, the defendant may be considered insane only if it could be clearly proven that at the *time* of the act he or she was labouring under such a defect of *reason* so as not to be able to distinguish between right and wrong. While Lord Brougham led the camp arguing for a miscarriage of justice, believing that McNaughten should have been found guilty, Lords Cottenham, Lyndhurst, and Campbell maintained that the verdict was correct. From both moral and legal standpoints they argued that men like McNaughten could not be held accountable for their actions.

In 1843 insanity was legally established as solely a physical impairment, importantly subject not to medical directives but to legal tests of responsibility defined by knowledge of right and wrong. Necessarily, such tests disavowed emotional, behavioral and environmental factors in legally defining mental disorder. Medical considerations centring on the origin of moral distinctions, the nature of conscience and the freedom of the will, were far from being at the heart of judicial decision-making. This was to become the subject of heated discussions within medical circles. Judicial decisions on insanity, physicians pointed out, remained under the 'Rules' bound to old authorities which had not advanced at the rate of medical science. As Hack Tuke wrote of the 'Rules' as late as 1892:

If we consider the circumstances under which the answers were rung from the judges in 1843, if we remember how agitated the public mind was at that time in consequence of the tragic death of Mr. Drummond, it might well be conceded that rules so given to the world were scarcely likely to be of a character to be binding to all posterity.<sup>76</sup>

While the McNaughten trial served to bring public attention to various forms of insanity and their relationship to moral perversity and criminal responsibility, the consequent rulings attempted, in retrospect rather unsuccessfully, to break down such complex nosological distinctions and place them within a legal framework. At the heart of the rules was whether or not the accused was legally punishable and in McNaughten's case it was agreed that he was not.

After McNaughten was sent to Bethlem, many felt that the 'public excitement' died down. As Townsend put it, the

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<sup>75</sup> *The Times*, 14 March, 1843, p.4.

<sup>76</sup> Hack Tuke, *A Dictionary of Psychological Medicine*, I, p.318.



calm good sense of the nation has tardily, but at length with general assent, recognised the propriety of M'Naughten's acquittal. It is far more just and merciful to take care alike of the accused and of society by confining in secure custody the doubtfully conscious shedder of blood, than to incur the fearful hazard of putting to death an irresponsible agent.<sup>77</sup>

With the 'Rules' formulated following the acquittal of McNaughten simultaneously acknowledging insanity and serving to seal the 'criminal floodgates',<sup>78</sup> that many feared his case would open, the McNaughten case set up the parameters by which *rightful* confinement was legally interpreted well into the twentieth century.<sup>79</sup> Yet as the following chapters will seek to demonstrate, the significance of the McNaughten case, and the legal tests of responsibility it gave rise to, lay in opening up a new floodgate through which the *responsibility* of the law, medicine, society and the individual in cases of *wrongful* confinement were contested. The spectre of wrongful incarceration in lunatic asylums was a powerful cultural anxiety in the nineteenth century. Its rhetorical formulation was encoded and underpinned by the McNaughten case. It centred on contested notions of humanity ('Morbid', 'sickly', and 'maudlin', for example), mercy and sentiment, and used a language which paradoxically bolstered and threatened the advances that the profession of psychological physicians were making in consolidating their grip both on insanity and the Victorian cultural imagination.

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77 Townsend, *Modern State Trials*, I, p.325.

78 Wiener, *Reconstructing the Criminal*, p.90.

79 Wiener, *Reconstructing the Criminal*, p.88.



## Chapter Two

### ‘safe liberty’ or ‘odious incarceration’?

#### The case of Louisa Nottidge

This chapter will examine the case of Louisa Nottidge, a middle-aged spinster who in November 1846 was forcibly removed from the Agapemone, a secretive millenarian religious community based in Somerset, by her two brothers and brother-in-law. After the necessary medical certification, she was placed in a lunatic asylum near London. Her behavior, action and beliefs, including estrangement from her family, attempts to commit suicide, and no apparent abatement of her devotion to Henry James Prince, the leader of the sect, suggested to the psychological physicians that she was suffering under a form of fanatical derangement, religious monomania. Nottidge was to remain confined in the asylum (despite trying to escape) until May 1848 when she was released by the Commissioners of Lunacy on the grounds of ill-health. She immediately returned to the Abode of Love, as the sect was also known, and as originally intended, turned over her inheritance of nearly £6000 to Prince, known to Nottidge as the ‘Beloved’. Once re-established with her friends and her three sisters, who had all married into the ‘family’, she brought an action for damages against her brothers and brother-in-law which was heard in front of the Lord Chief Baron, Frederick Pollock, in the Court of Exchequer in late June, 1849.<sup>1</sup>

Like the chapter on McNaughten, this chapter will explore the problems posed by the concept of monomania as it was debated both in and out of the courtroom. The case highlighted several issues which dramatically positioned the medical profession rather than Nottidge’s relatives, as the key defendant in the dangerously influential and potentially damaging court of public opinion. To many observers of the case, her behavior and beliefs amounted to no more than harmless eccentricities. To the profession of mental science, they were representative of a disorder which necessitated treatment in a lunatic asylum. She was seen by the medical establishment as dangerous both to herself and to society. Irreconcilable, these two positions initiated and framed a debate which (despite the differing dimensions of the case) in many respects drew upon concepts of social, medical and legal responsibility witnessed both during and after the trial of McNaughten.

When Esquirol’s new disease entity of monomania began to be used in the French courtroom in the first half of the nineteenth century, the debates it generated were often framed in the context of humanitarian rhetoric. It was commonly felt, especially by right-wing magistrates and legal advocates, that monomania represented no more than misguided philanthropy and a

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<sup>1</sup> On Pollock see Edward Foss, *A Biographical Dictionary of the Judges of England, 1066-1870* (London: John Murray, 1870), pp.523-25. See also Lord Hanworth, *Lord Chief Baron Pollock: A Memoir* (London: John Murray, 1929).



‘system’ of mercy which encouraged nothing less than ‘false pity’.<sup>2</sup> As we have seen, similar rhetoric (‘maudlin humanity’, ‘sickly humanity’, ‘soft-hearted’) was pervasive in discussion elicited by the McNaughten trial. The case of Nottidge is important because of the way that it highlights a transformation in the construction, application and effectiveness of a compassionate rhetoric of enlightened benevolence and humanity; a transformation which was to have profound consequences for physicians seeking to assert autonomous medical control over the lunatic and to secure public respect for their profession. The prosecutor in the McNaughten trial, Webb-Follet, sought to emphasise to the jury the brutal nature of the murder and position the prison as the rightful site of retributive punishment. In contrast, McNaughten’s advocate attempted to show that the defendant committed the murder while suffering under a monomaniacal delusion. To this end he relied heavily on medical witnesses and on a rhetoric of humanity. As chapter one demonstrated, even before McNaughten was found not guilty by reason of insanity, the case attracted public attention. Though ostensibly the newspaper and journals debated whether McNaughten was insane or an ‘atrocious villain’, it was equally a conflict which pitted the lay-public’s ‘hysterical tenderness’ against a position of mercy which indirectly acknowledged the existence of monomania. The question of whether the physician’s diagnosis in conjunction with Cockburn’s defensive strategy reflected an ‘overly-refined’ humanity which was itself dangerous to society, was also central to the case of Nottidge.

Those who believed that Nottidge’s rights to freedom of speech and action had been obstructed by physicians used identical rhetorical strategies (of humanity, mercy and benevolence) to support her action for damages and denounce the unwarranted intervention of the medical community. Acknowledging the threat such opinions posed, physicians (and the commissioners in lunacy) mounted a vociferous defence of their actions. Highlighting the excessive sentimentality of ‘humanity-mongers’ they argued that the generosity of the press to Nottidge’s eccentricity posed very real dangers to the safety both of the lunatic and society as a whole. While this chapter will explore the way such rhetoric was used and to what effect, drawing on Goldstein’s analysis of the French psychiatric profession, it will also pay attention to the way that the manipulation of the rhetoric of humanitarianism disclosed a preoccupation, in the field of mental science, with social status and medical expertise.<sup>3</sup>

Ever since Esquirol had envisioned the role of the *medecin des aliénés* as auxiliary figures important both to the successful running of the state and as moral statisticians, many physicians had gained professional recognition and admiration.<sup>4</sup> However, though Esquirol believed that the

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2 Goldstein, *Console*, p.181.

3 Goldstein, *Console*, p.168.

4 Goldstein, *Console*, p.158.



enhanced specificity of linguistic categorisation to include monomania and its multiple subdivisions would result in a clearer understanding of insanity, the better treatment of lunatics, and clearer guidelines for committal to lunatic asylums, it remained a concept which challenged psychiatrist's understanding of mental derangement. Physicians who were used to diagnosing madness based on the defective state of one's intelligence were now forced to observe behaviour and to judge between sane and insane *emotions*.<sup>5</sup> The difficulty of distinguishing monomania from eccentricity formatively contributed to an anxiety about wrongful confinement. Partially explaining why the M'Naughten rules of 1843 failed in their attempt to regularise the law, the problems monomania presented to English medical and legal circles in the 1830s and 1840s were dramatically encapsulated in the case of Louisa Nottidge.

This chapter is divided into six sections. Offering a brief biography of Henry James Prince and examining the events that led to the establishment of the Abode of Love, the first section will consider the reasons underlying the popular perception of its followers as victims of religious madness. The second section will examine contemporary medical opinion on religious aberration. The third section traces Nottidge's involvement in the Abode, her abduction, and the trial itself, focusing on the contested doctrine of monomania. The fourth and fifth sections turn to the coverage of the trial in the press and journals, many of which were critical of the part played by the medical establishment. Physicians responded to this criticism and the fifth section will focus on their reaction to the verdict and their interpretation of the dangerous role sentimental rhetoric played in the Nottidge case. The concluding section provides a brief overview of the case and the important role monomania played in exposing and entrenching in the public mind competing versions of authority.

#### *i. The Abode of Love*

In late May, 1849 a resident of the village of Spaxton in the county of Somerset, Isaac Thomas, brought charges for damages in the Bridgewater County Court in Taunton against three men, Thomas Starky, Lewis Price and Thomas Williams. As Thomas's counsel explained in court, his client had 'innocently' been watching a game of field hockey when 'about twenty men rushed out with their hockey sticks' and 'beat him unmercifully'. Thomas was 'felled to the ground by a blow in the head'. The defendants' counsel, Mr Rouse, argued conversely that Thomas had initiated the débâcle by throwing a stone which had been provocatively aimed at their friend, Henry James Prince. Rouse declared that his clients had no wish to break the laws or disturb the peace of the country and had only retaliated under extreme provocation. The Judge was not convinced and gave judgment in favour of Thomas, awarding compensation totaling £11 11s.<sup>6</sup>

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<sup>5</sup> Hack Tuke, *Prichard and Symonds*, p.20. My italics.

<sup>6</sup> *Exeter Flying Post*, 28 June, 1849, p.3.



Commenting on the débâcle after the conclusion of the case, the sympathies of the local paper, the *Bridgewater Times*, clearly lay with the plaintiff. The paper acknowledged that field hockey was a ‘rather a roughish game, even for boys’,<sup>7</sup> and accepted that it was sufficiently novel to ‘excite the gaping wonderment of [...] simple rustics’(p.3). However, like Thomas, the paper maintained that guilt rightly lay with the defendants: ‘If they commit such acts as provoke and excite others to assemble in crowds to watch their extraordinary manoeuvres [...] they are morally guilty of the result of such assemblies if a breach of the peace be committed’(p.3). While itself bizarre, the action for damages was made all the more unusual by the fact that the three defendants were members of a ‘mysterious community’<sup>8</sup> known as the Abode of Love.

The friend whom Starky, Price and Williams had been defending, Henry James Prince, was the revered founder of the Abode, a millenarian religious sect.<sup>9</sup> At the heart of Prince’s doctrine was the belief that all true religion began and ended with prayer and that it was the first duty and the highest profit of those who sought to do the will of God on earth.<sup>10</sup> As one ‘family’ member, Louis Price, later explained,

we pray by offering up praises to God, by a life of goodness to God, and by outward manifestation, such as singing, and by healthy exercises, and ‘hockey’ is one. I consider that all we do is to the ‘glory of God.’ That is the commandment of God. I consider that we are glorifying God when we eat and drink. Every one does as he pleases on the Sunday. We make no difference between that day or any other day.<sup>11</sup>

Initial suspicion at the sect’s strange ‘hockey worship’,<sup>12</sup> and abhorrence for their seemingly heretical beliefs soon eroded in the face of curiosity. Prince’s services became increasingly popular. Ever conscious of the danger of his doctrines being undermined by partial believers, he stated that

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<sup>7</sup> *Bridgewater Times*, 21 June, 1849, p.3. Further page references are contained within in the text.

<sup>8</sup> *Exeter Flying Post*, 28 June, 1849, p.3. Illustrating the national attention that the incident and so the Abode received, *Punch*’s amusing cartoon draws attention to both the bizarre sport and the curiosity it aroused in the local community. See Figure 1 (on p.81) from *Punch*, 1 (January - June 1850), p.231.

<sup>9</sup> On Prince and the origins of the Abode, see William Hepworth Dixon, *Spiritual Wives*, 2 vols (London: Hurst and Blackett, 1868), I, pp.261-264, and Charles Mander, *The Reverend Prince and his Abode of Love* (Wakefield: E. P. Publishing, 1976).

<sup>10</sup> Dixon, *Spiritual Wives*, I, p.256. In the 1830s Prince had experienced a spiritual conversion. He believed that the Holy Spirit had penetrated his earthly body, causing it to die, and himself to become the embodiment of a new creation of the Lord.

<sup>11</sup> *Morning Chronicle*, 25 June, 1849, p.7.

<sup>12</sup> *Express*, 30 June, 1849, p.3.



only those holding a true belief should be entitled to attend. As William Hepworth Dixon described it, '[b]roils arose [...] boys and girls quarreled with their parents, servants with their masters; while the ungodly rabble took advantage of this uproar to hoot and curse'.<sup>13</sup>

Such 'broils' brought to the parish the critical attention of the Reverend George Henry Law, the Bishop of Bath and Wells. On 4 May, 1842 Law revoked Prince's licence to preach within the diocese of Bath and Wells.<sup>14</sup> Immediately relieved of his post, it was inevitable that Prince and his devoted followers would officially leave the Church of England, but not before they had established a course of action. While Prince would set up a congregation in Brighton, Starky would do the same in Weymouth. After the site at Weymouth soon became too small to accommodate the swelling members of Prince's 'family', a decision was made in 1846 to reunite and relocate to Spaxton. With what was believed by the locals to be a mysterious and contraband financial source, it was here that resources were pooled to construct a lavish stone chapel, overseen by the watchful eyes of two 'princites', G.V. Thomas and Thomas Cobbe.<sup>15</sup>

Here the whole family, numbering around sixty, sought to live in secluded harmony. Yet as the field hockey sensation indicated, this was an impossible project. As a writer for *The Times* noted, the 'distinguishing peculiarity' of the 'mystical jargon' espoused by the Abode was its 'enforcement of mirth and recreation as religious duties'. Such 'diversions' he concluded, were of the 'most harmless, if not the most ridiculous character'.<sup>16</sup> Though the *Express* newspaper commented that the residents of the Abode remained 'super-saturated with folly', because they 'did not insist on other people being fools' and did not even 'obtrude their practices on public notices', they were relatively harmless in their pursuit of peace and tranquillity.<sup>17</sup>

Yet the innocent and 'harmless' practices and beliefs of the Agapemone were hotly contested. A short pamphlet entitled *Mr. Prince and the Agapemone* (1858) sought to delineate the heresy underlying Prince's doctrines and to explain how his 'dogma was physically, morally, intellectually, and spiritually opposed to the Word of God'.<sup>18</sup> By contrasting Prince's doctrines with passages from the Bible the pamphlet sought to reclaim 'those who have been led away [...] and

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13 Dixon, *Spiritual Wives*, I, pp.280-81.

14 Mander, *The Reverend Prince*, p.68.

15 Thomas Cobbe, the brother of Frances Power Cobbe, was a civil engineer employed on the Bristol and Exeter Railway line. After leaving the railway he was one of the Agapemone's more wealthy residents. See Mander, *The Reverend Prince*, p.70.

16 *The Times*, 30 June, 1849, p.7.

17 *Express*, 30 June, 1849, p.3. See also the *Illustrated London News* (January-June 1851), pp.253-254.

18 *Mr. Prince and the Agapemone - The Doctrines of Mr. Prince tested by the word of God* (Taunton: W. A. Woodley, 1858), p.16.



[act as] a convincing comfort to those who have left, and have had inducements held out to them to return, and are therefore wavering in their decision'.<sup>19</sup> The claim Prince made to be a prophet attracted the scornful rebukes of his critics. 'The most favourable view', the *All England Law Report* recorded in a case for damages against Prince in 1860, 'would be that under the influence of a disordered imagination, he really fancied himself to be such a supernatural being as he made these ladies believe'.<sup>20</sup> The pamphlet of 1858 was far from convinced of his transcendental authority. The first nine verses of Book III of Timothy, the reader was pointedly reminded, 'contains many sins at which he [Prince] has been aiming and doing'.<sup>21</sup> The author of *Mr. Prince and the Agapemone* concurred. Prince was 'of that class of God has descibed [sic] in His Word as outside, where there are "Sorcerers, and Whoremongers, and Murderers, and Idolators, and whosoever loveth and maketh a Lie"'.<sup>22</sup>

Though Rouse (himself an Agapemone resident) had argued in court that the community desired neither to intrude upon nor cause offense to the locals, their doctrines and secretive practices could not but arouse intense curiosity and encourage pernicious speculation. The 'strange and extraordinary' lifestyle of the 'mysterious community', or 'very singular sect' affronted the upright sensibility of the local community, who were shocked on 'moral, social, and religious grounds' at their mode of living and their lack of traditional religious tenets:

With every luxury money can procure, beautiful equipages, splendid horses, and other adjuncts of wealth [...] the Princites, with their splendid horses and dogs, sweep through our villages as if going to the hunt, or the race field, and this while the village bells may be solemnly inviting them to prayer.<sup>23</sup>

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19 *Mr. Prince and the Agapemone*, p.1.

20 *The All England Law Reports Reprint, 1843-60*, ed. by G. F. L. Bridgman (London: Butterworth & Co. Ltd, 1965), p.768.

21 *Mr. Prince and the Agapemone*, P.15. The pamphlet was referring to an eventually substantiated rumour that in the Spring of 1856 Prince had 'deflowered' one of the young residents or 'soul brides' in front of the entire congregation. The young girl had become pregnant and the child was believed by Prince to be the son of the Devil. The event had become known as the 'Great Manifestation'. See Mander, *The Reverend Prince*, p.7. See also *Some Account of the Agapemone* (London: J. Snow & Co., 1887), p.2; and Prince's own account in *The Little Book of the Testimony of Br. Prince* (London: C.A. Bartlett, 1856).

22 *Mr. Prince and the Agapemone*, p.16.

23 *Exeter Flying Post*, 28 June, 1849, p.3. For artist's image of the community in 1850, see Figure 2 (on p.82), from Mander, *The Reverend Prince*, p.110.



While some were curious to know where the money came from, others were gripped by rumours of the 'Princite's' deviant sexual practices.<sup>24</sup> Whatever their particular curiosities, it was agreed that the action brought in 1849 against three of its residents, or 'the exposure given to their doings [...] will open the eyes of the public to the true character of this set of Princites'. The editorial in the *Bridgewater Times* published after the county court proceedings concluded with a question: 'how he [Prince] could have so duped others to have joined him in this extraordinary work, has been, and ever will remain, a mystery' (p.3).

## ii. Subtle Schemings

Much of the fervent curiosity and speculation about the Agapemone community focused on the question of how members of the public could become so seduced by such a dangerous and bizarre sect. Though claims made by the Agapemone were initially contested as a form of heresy, to be answered by Scripture, the debate shifted quickly from theology to medicine. The issue became not whether they were liturgically *wrong*, but whether in fact the 'family' members were mentally deranged. The local press believed that the whole Agapemone community showed signs of 'religious madness or most subtle scheming'.<sup>25</sup> The actions of their spiritual leader, Prince, they thought, had been 'from first to last the proceedings of a madman',<sup>26</sup> and their ready converts were thought to be unsound and weak-willed men 'and far more witless women',<sup>27</sup> who had been 'duped' or were 'deluded'. Armed with confident scientific explanations of religious aberration, medicine provided an interpretation of the Agapemone's devoted followers which proved immensely persuasive.<sup>28</sup>

As late as 1898, L. Forbes Winslow (the son of Forbes Benignus Winslow) claimed that religious madness constituted one of the more formidable species of insanity. Like his predecessors, he believed it to be a dangerous form of monomania in which the

mind fixes upon a well-known truth, and exaggerates its importance to the exclusion of everything else. The idea enlarges, and at length becomes gigantic; it grows and increases;

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<sup>24</sup> *Express*, 29 June, 1849, p.3.

<sup>25</sup> *Exeter Flying Post*, 28 June, 1849, p.3.

<sup>26</sup> *Bridgewater Times*, 21 June, 1849, p.3.

<sup>27</sup> *Express*, 29 June, 1849, p.3.

<sup>28</sup> Medical rather than theological interpretations of 'eccentric' religious behaviours and doctrines represented a powerful tool enabling the public to make sense of such apparently deviant beliefs and modes of living. See Andrew T. Scull, *Museums of Madness: The Social Organization of Insanity in Nineteenth-Century England* (London: Allen Lane, 1979), pp.42-43. See also Scull, *The Most Solitary of Afflictions*, p.178; Roy Porter, *Mind-Forg'd Manacles: A History of Madness in England from the Restoration to the Regency* (London: Penguin Books, 1990), pp.78-79.



it has no context, and admits of no relationship with any other truth; it stands alone [...] The person so possessed is a dangerous lunatic.<sup>29</sup>

James Cowles Prichard, writing nearly sixty years earlier, was less extravagant in his delineation of religious mania. Though it could not be doubted that ‘in persons predisposed to insanity [...] anxieties connected with a future state of existence have been the exciting causes of mental derangement’, his caution was explicit:

The circumstance that the mind of a lunatic is occupied during the period of his disease with ideas and feelings connected with an invisible world, is no proof whatever that the derangement of his understanding was produced in the first instance by impressions related to the same subject.<sup>30</sup>

Though Prichard continued this train of thought with an examination of the distinguishing religious manias of Catholics and Protestants, he concluded that the foundations of religious insanity were not limited to particular nations and periods but to ‘the condition and circumstances of human nature’.<sup>31</sup> Here Winslow agreed:

Religious sentiment or instinct enters so materially, as well as so intimately, into every motive and every action, and tinges so deeply and indelibly every thought, implicit or explicit, that it may be said that no event happens in the world which is not a scene of one of the acts of a vast religious drama (p.140).

The theoretical sophistication and classificatory expansion of nosological systems of insanity to include monomania and its multiple sub-divisions increased the confusion between religious mania and religious eccentricity.<sup>32</sup> The ‘inveteracy of its character’, Winslow argued, demanded that it be understood as ‘not a mere mental act’, nor a ‘violent effort of volition’ but rather an ‘excitement upon the abstract truths of religion, originating from, or closely connected

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29 L. Forbes Winslow, *Mad Humanity - Its Forms, Apparent and Obscure* (London: C. A. Pearson, Ltd., 1898), p.120. Further page references are contained within the text.

30 James Cowles Prichard, *A Treatise on Insanity and Other Disorders Affecting the Mind* (London: Sherwood, Gilbert, and Piper, 1835), p.187.

31 Prichard, *A Treatise on Insanity*, p.190.

32 For comprehensive list of monomania sub-types, see D. Hack Tuke, *A Dictionary of Psychological Medicine*, I, p.812. Religious madness was not a new phenomenon in the first half of the nineteenth century. Since at least the sixteenth century, writers had believed that witchcraft and other forms of possession were indicative of mental derangement rather than demoniacal mastery. However, it was not until the late-eighteenth and early nineteenth centuries that religious forms of insanity entered established nosological systems. For overview, see Winslow, *Mad Humanity*, p.119.



with, actual organic changes of structure' (p.136). As a disease of the brain, only physicians conversant in mania could authoritatively diagnose and treat it. Physical changes were manifested in the behaviour of the religious maniac in precise ways. As John Conolly described them in 1849, fanatical lunatics were at once

gloomy and presumptuous, they are easily induced to believe that God speaks to them more directly than to others; they soon learn to despise their parents; they denounce their relatives and friends, write foolish or abusive letters to persons in their neighbourhood; interfere in every family; and put their whole trust only in the vilest flatterers of their folly, to whom their property is willingly confided.<sup>33</sup>

To Conolly, there was 'no single cause of insanity more frequent than fanaticism'.<sup>34</sup> Mental derangement caused by religion was to Winslow 'remarkable for its destructive propensities, and depraved state of morality' (p.134). It was a dangerous disease and, to be sure of administering the proper treatment, all 'patients suffering from religious insanity must be regarded as suicidal' (p.132). It was for this reason that confinement in asylums was seen as the most appropriate means to contain the 'formidable pertinacity' of religious mania.

### *iii. The Law and Louisa Nottidge*

The 'sensational' trial of Nottidge v. Ripley has often been referred to in histories of nineteenth-century psychiatry and related social, cultural and legal histories. It has been employed as one of many examples of illegal confinement to examine the predominance of insanity in women, and to indicate the complexities faced by physicians in defining madness.<sup>35</sup> However, because it has been used predominantly as an illustrative tool, the intricacies of the trial, and particularly the retaliation of the medical profession in response to the public denigration of their intervention, have not been given the attention they deserve. From a wider perspective, the trial and the unprecedented responses it elicited magnified the difficulties faced by the psychiatric profession in their desire to gain autonomy and professional credibility. Such difficulties came not only in the form of a lay-public, whom physicians could argue were ignorant and unworthy of responding to, but from the legal profession in the form of the laws they had enacted to guard against the ill-

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33 John Conolly, *A Remonstrance with the Lord Chief Baron Touching the Case Nottidge versus Ripley*, 3rd edn (London: John Churchill, 1849), p.15.

34 Conolly, *Remonstrance*, p.15.

35 See, for example, Parry Jones, *Trade in Lunacy*, p.236; Scull, *Social Order*, pp.282-85; Alex Owen, *Women, Power and Spiritualism in Late Victorian England* (London: Virago Press, 1989), pp.152-4. On the significance of religion to the case, see Joshua John Schwieso, "Religious Fanaticism" and Wrongful Confinement in Victorian England: The Affair of Louisa Nottidge', *Social History of Medicine*, 9 (August 1996), pp.159-174.



treatment of lunatics. More specifically, by crystallizing the confrontation between medical and libertarian principles the case foregrounded the problems psychiatrists would encounter throughout the century in defending sophisticated nosologies and the necessity of asylum care itself, particularly in light of its increasingly poor curative value.

It was while living comfortably with their parents in the village of Rose-hill in Suffolk, that Nottidge's three spinster sisters, Harriet, Clara and Agnes first heard Prince preach in Brighton.<sup>36</sup> They were intoxicated by Prince's doctrines. In May 1844 their father died after a long illness. Harriet, Agnes and Clara attended the funeral, explaining to their mother that they only did so because it was the 'will of God'.<sup>37</sup> Though a horrified Mrs Nottidge declared that she would never 'receive' Prince into her home, and though Nottidge stated that she 'did not want to join them [her sisters] in their devotion', mother and daughter eventually left Rose-hill to join the sisters in Sussex. From her later testimony, it is clear that Mrs Nottidge was extremely unhappy both when Clara, Agnes and Harriet suddenly married three of the members of the Agapemone and when Nottidge herself became the newest recruit to the Abode.<sup>38</sup> Fearing for her daughter's safety, in December 1845 Mrs Nottidge left Brighton, with Nottidge, to return to Rose-hill.

Nottidge was unhappy with their departure and when she received a visit from two of the Abode's 'family' members, Mr Turner and Mr Starky, she suddenly left with them (to live in the community in Charlinch). Mrs Nottidge searched for her missing daughter for nearly two months. Despite offering a reward for information, all she was able to discover was that Nottidge was living 'in the greatest sin and iniquity'. Fearful for her daughter's safety, she requested the assistance of her son-in-law, Ripley, and her two own sons, Edward and John Pepys. Providing them with all the information she had gleaned from friends and from many letters, they were successful in bringing Nottidge to Ripley's home in London.

To her family, the abduction of Nottidge from a rear exit of the local inn (where she had been staying) without 'her bonnet, or shawl, or shoes',<sup>39</sup> was appropriate though too late to have saved her from the influence of Prince. Asking her daughter about Prince, Nottidge replied that she knew of no such person:

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36 The fifth sister, Cornelia, had by this time married Mr Ripley, one of the two defendants in the Nottidge trial.

37 *The Times*, 26 June, 1849, p.7. For family history see also 27 and 29 June, 1849.

38 It was pointed out in court that Mr Cobbe, Mr Thomas and Mr Price were much younger than their wives and were essentially penniless while their wives each brought with them inheritances of £6000. It was also pointedly remarked that common-place Victorian prenuptial settlements were not signed by any of the couples. Though the Married Women's Property Bill had become law in certain states in the United States in 1857, it was not until 1882, renamed The Married Women's Property Act, that it became law in England.

39 *Express*, 25 June, 1849, p.4.



God now dwells only at Charlinch in the flesh of Him I once knew as Mr. Prince. God who made me, and all the world, is now manifest in him whom I once called Mr. Prince. He has entered his tabernacle of flesh among men, and I have seen God face to face. He will deliver me wherever I am taken.<sup>40</sup>

After Nottidge declared that she would never die, her shocked mother requested the expert assistance of physicians.<sup>41</sup> Though she had originally wanted her daughter to remain at home 'with a keeper, if necessary', because Nottidge continually insisted on returning to Charlinch, on the 11 November 1846 certificates declaring her to be of unsound mind were signed by the local surgeon and physician, Mr Thomas Morton and Dr Rowland. She was committed to Dr Stillwell's private establishment, Moorcroft Asylum in Hillingdon.

In their testimony the two medical men gave differing explanations for their diagnosis of religious mania. Morton turned to Nottidge's delusions, explaining that she had 'estranged herself from her mother's house [...] to follow a person of the name of Prince, whom she believed to be Almighty, and herself immortal'.<sup>42</sup> Rowland noted her objectionable nature (she refused to answer his questions) and stated that she had later admitted to him that she had tried to escape from the asylum. He 'was perfectly satisfied at the time of her unsoundness of mind'. Both doctors emphasised that they held the necessary expertise to diagnose such a condition.<sup>43</sup> Though the testimony of Rowland and Morton was important, the defendants' case centred on Dr Stillwell's testimony regarding Nottidge's mental state. Once officially under his care, her 'mania' continued unabated. As he explained to the jury, his patient said that Prince

had rendered her immortal - that she should not die - that she should not be buried in a coffin as other persons were; and that she should be taken up to heaven in the twinkling of an eye [...] she sang as she walked about the room but never used any intelligible words

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40 *The Times*, 26 June, 1849, p.7.

41 At this point in the proceedings the Lord Chief Baron asked Mrs Nottidge why she didn't immediately call for a commission of lunacy. Her counsel replied on her behalf that there was a strong desire for as little publicity as possible, a recurrent concern of friends and relatives of alleged lunatics.

42 *The Times*, 26 June, 1849, p.7.

43 Unsoundness of mind, as set out in English law, included all 'who by reasons of morbid conditions of intellect are incapable of managing themselves and their affairs as an idiot or a lunatic, or a person of merely weak mind [...] Great general eccentricity assists materially on the proof of [...] unsoundness of mind and furnishes strong ground for suspicion of predisposition to madness'. See Charles Palmer Phillips, *The Law concerning Idiots, Lunatics, & Persons of Unsound Mind* (London: James Wildy, 1858), pp.2-6.



[...] The plaintiff had no other delusions but those in reference to Mr. Prince, and he had, in my opinion, such an influence over her that she would have done anything.<sup>44</sup>

Highlighting to the jury his trustworthiness, the asylum proprietor explained that because Nottidge objected to her confinement, he requested a visit from the Commissioners in Lunacy in December 1846. Lord Shaftesbury himself, and another commissioner, Mr Turner, interviewed Nottidge. They substantiated Stillwell's diagnosis of religious madness. As Turner explained in his testimony, they 'had no doubt whatever of her unsoundness of mind' and so refused to support her release. On 6 January 1848 she attempted to escape. On the pretence of visiting with Stillwell's wife, she reached Farringdon Road Station where she was met by Cobbe (with Starky and other residents, Cobbe had been scouring the south of England looking for her ever since her sudden departure from Charlinch). Yet Nottidge had been followed by an asylum attendant who escorted her back to the asylum on 8 January. Cobbe followed them back to Moorcroft Asylum. Though he was refused permission to speak with her, after his return to the Abode of Love he wrote to the Commissioners in Lunacy and after implementing an inquiry, Louisa Nottidge was released from Moorcroft asylum on the grounds of ill health on 15 May 1848. In Turner's testimony, he stated that at the time of her release there had been 'no abatement of the unsoundness of mind [...] nor of her extraordinary delusions on the subject of religion'. Despite no indication of recovery, he confirmed that all of the Commissioners except himself thought her capable of managing her own affairs. He himself 'objected to her being set at liberty'.

The 'extraordinary trial' was resumed the next morning when Mr Mylne, another Commissioner in Lunacy, took the stand. It was his testimony that was to decide, in the minds of the jury, that an 'outrage' had been committed upon Louisa Nottidge. Mylne had seen her twice while she was at Moorcroft and explained to the jury that much discussion had taken place concerning her case. Concurring with a colleague, Mr Prichard (unrelated to James Cowles Prichard), he stated that he was satisfied that she was of unsound mind and so 'a very fit object for confinement in the asylum'. The Lord Chief Baron asked Mylne whether he thought that Nottidge was in such a state of mind to be dangerous to herself or to others. Mylne replied that in his opinion she was not dangerous. When asked by Pollock why he then saw fit to support her continued confinement (for seventeen months) he replied that it was 'no part of my duty to keep her there. I was only to liberate her if I saw good and sufficient reason for adopting that course'. The Lord Chief Baron's response to Mylne was quoted in all of the subsequent letters, remonstrances, and editorials concerning the case:

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44 *The Times*, 26 June, 1849, p.7. *The Times* has been invaluable in acquiring details of the case and the trial. All information here is taken from coverage of the case on 26 June, 1849, p.7 and 27 June, 1849, p.7.



It is my opinion that you ought to liberate every person who is not dangerous to himself or to others. If the notion has got abroad that any person may be confined in a lunatic asylum or a mad house who has any absurd or even mad opinion upon any religious subject, and is safe and harmless upon every other topic, I altogether and entirely differ with such an opinion; and I desire to impress that opinion with as much force as I can in the hearing of one of the commissioners.<sup>45</sup>

After several other physicians connected to the case took the stand (including a Mr Proctor who stated affirmatively that she was a monomaniac suffering under religious delusions), the case for the defendants concluded with Sir Thesiger's summation of the case on behalf of Nottidge's brothers and brother-in-law.

In 'a most eloquent and energetic speech', Thesiger's closing address was specific and damning. The Abode of Love, he argued, was 'dangerous'. The doctrines they espoused crept, via their agents, almost unknowingly into families and there 'spread dismay and desolation'. Such an association could not but be 'degrading' and 'disgusting'. The implication was that no one of their own free will would join the Agapemone. Rather, individuals like Louisa Nottidge were 'irresistibly' coerced, certainly unaware of the base and mercenary motives underlying the quasi-religious doctrines of their new 'family'. Thesiger's 'very powerful appeal' was directed at the jury's assumed sympathy for Nottidge's family, a family which he attempted to show had been painfully divided by the Agapemone. He concluded that it was her family's 'moral duty to make every effort to pluck this lady from the position of danger into which she had been drawn'. His summing up elicited considerable applause.

In 'one of the most eloquent speeches that has been heard in Westminster-hall for many years', Cockburn's opening remarks on behalf of Nottidge drew upon a libertarian discourse which emphasised the freedom of religious belief. In attempting to draw out the jury's assumed sympathetic attitude towards the abundance of conflicting religious beliefs, Cockburn situated her faith in the doctrines of the Agapemone in a larger framework. By acknowledging from the outset that the explosion of religious sects and the multitude of doctrines they espoused engendered familial hazards, he was able to offset the defence's suggestion that her estrangement from her family was indicative of the presence of insanity. Instead, a 'severe wrong had been committed upon this lady'. Removing her from the Abode of Love had infringed her religious freedoms and her civil liberties had been endangered by the unjust and 'odious incarceration' she had experienced at the hands of the medical establishment. Cockburn concluded by suggesting that if God was capable of forgiveness, then the jury should not hasten to condemn her 'error' of judgment but rather should exonerate her by awarding substantial damages. Cockburn proceeded to bring to the stand a

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<sup>45</sup> *The Times*, 27 June, 1849, p.7.



number of witnesses who testified to Nottidge's sanity. These included Nottidge's mother and several members of the Abode.

It was immediately evident in his summing up of the case that though legally impartial, the Lord Chief Baron favoured Cockburn's argument. While he believed that the jury must find in favour of the plaintiff because the defendants had not tried to deny their role in the abduction, he also believed that despite the lengthy testimony of medical witnesses, no evidence had been provided to suggest that she was insane. He concluded by stating his own 'idea of toleration':

all those who entertained with sincerity any peculiar doctrine, however absurd that doctrine might appear to others to be, ought to be allowed to enjoy that opinion without interference, so long as the principles and the acts they adopted were not forced offensively, or contrary to law, upon the public notice, or against public morals. If persons sincerely entertained these doctrines, then they were, in his opinion, as much entitled to be treated with respect as any other religious sect.<sup>46</sup>

After retiring for an hour, the jury returned to give their verdict. The 'high moral duty' of her family, they decided, was not a justifiable reason for removing Nottidge from the Abode and they awarded her damages of £50.<sup>47</sup>

#### *iv. Humanity-Mongers?*

Recalling the county court case of the three Abode residents only weeks before the Nottidge trial, *The Times* suggested that the 'question of the illegal incarceration of persons in madhouses under a trumped up accusation of insanity' was 'of far greater public concernment than the equipages or hockey-sticks, or any mad freaks of the Agapemone, or any other crack-brained sect'.<sup>48</sup> Though the action had been brought against Nottidge's relations, it was clear that in the court of public opinion it was the psychiatric profession that was on trial. As a result of the ruling they had been publicly criticised and professionally over-ruled. They were harshly criticised not, as was often the case, for incarceration procedures (which in this case had been in order) but for their decision to commit Louisa Nottidge to an asylum because of her religious beliefs.

As chapter one demonstrated, the enlarging of classificatory designations of insanity to include monomania was a source of public and legal discontent. *The Times* argued that it was vital not to equate a 'harmless' eccentricity with monomania. 'We must not', the paper declared, 'call a

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<sup>46</sup> *The Times*, 27 June, 1849, p.7.

<sup>47</sup> The low figure decided by the jury resulted from their belief that the abduction committed by Nottidge's relatives was not actuated by mercenary or unworthy motives.

<sup>48</sup> *The Times*, 30 June, 1849, p.7.



man mad because he differs from ourselves in matters of opinion'.<sup>49</sup> The *Express* concurred: 'In the wide doctrine of tolerance there are few points that require to be more strenuously and reiteratedly [sic] inculcated than the right men have to be as absurd as they please. There is nothing criminal in being a fool so long as a man's folly does no harm'.<sup>50</sup> Both papers were outraged at the particular role played in the case by the Commissioners in Lunacy. Their conduct was 'unaccountable and indefensible' and their suggestion that 'there was some hidden monomania lurking in the recesses of her mind, [...] was a gratuitous and unwarrantable assumption'.<sup>51</sup>

Though the Commission was in many respects instrumental in establishing a national system of care for the insane, its commissioners were criticised both for their lack of experience in asylum superintendence and their failure to enforce legislative guidelines for committal to and removal from lunatic asylums. As a bemused writer in *The Times* noted, the Commission seemed unsure even of its own legislative authority, deciding at one moment that 'Miss NOTTIDGE should be retained in confinement, at another they order her release'.<sup>52</sup> This was a cause for concern. 'If one mistake has come to light, how many others must there have been of which we are ignorant - and where a mistake means the incarceration in a madhouse of a person not of insane mind, how awful is the possibility of its occurrence!'.<sup>53</sup> Further compounding concern was the revelation that one of the 'confidential medical men' involved in the case was a relative of Stillwell (the asylum proprietor).<sup>54</sup> For this reason, it was felt that the Board of the Commissioners in

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49 *The Times*, 30 June, 1849, p.7.

50 *Express*, 30 June, 1849, p.3.

51 *Express*, 30 June, 1849, p.3. The Commission of Lunacy had been established by the legislation of 1845 to replace the Metropolitan Lunacy Commission (founded in 1828). As a centralized body (still chaired by Lord Shaftesbury) it consisted of six full-time professionals. Three of these had legal responsibilities and three medical. In conjunction with the Home Office they supervised the construction and management of the new county asylums and were given the statutory authority to visit, unannounced, private and public asylums, as well as workhouses and hospitals. They were empowered to alter the regimes of private asylums as they saw fit, as well as institute inquiries upon the request of lunatics and their families and friends (as witnessed in the Nottidge case). For the first time, one body was given authority to 'monitor practices and establish standards relating to medical certification, asylum management, and the care of patients on a nationwide basis'. Nicholas Hervey, 'A Slavish Bowing Down: the Lunacy Commission and the Psychiatric Profession 1845-60' in *The Anatomy of Madness: Essays in the History of Psychiatry*, ed. by W. F. Bynum, Roy Porter and Michael Shepherd, 3 vols (London and New York: Tavistock, 1985), II: *Institutions and Society*, pp.98-131 (p.104).

52 *The Times*, 30 June, 1849, p.7.

53 *The Times*, 29 August, 1849, p.4.

54 *Express*, 30 June, p.4. The new commission had been established in part to suppress public concern at the existence of unethical personal and professional links between the Metropolitan commissioners



Lunacy were not acting in the interests of public security and their involvement in the case of *Nottidge v. Ripley* amounted, *The Times* thought, to a ‘foul outrage to law and humanity’.<sup>55</sup> The Commissioners, the *Express* concluded, ‘acted most unwarrantably in allowing a lady to remain under coercion a single day, simply because her religious notions appeared to them extravagant’.<sup>56</sup>

The arguments put forth by the Commissioners in Lunacy in defence of their role, the *Express* suggested, were no better than ‘the gossip of village publics, always indignant when they see people act differently from themselves, and but too prone to give vent to their righteous wrath, by retailing all their black conjectures and surmises as positive facts’. The paper sarcastically commented that if ‘everyone whose creed does not square exactly with the notions entertained by the Colleges of Physicians and Surgeons and at Apothecaries’ Hall is to be shut up in a mad-house, we shall have a rare time of it’. Anger was similarly expressed at the unwarrantable authority of physicians to incarcerate Nottidge on the grounds that unsoundness of mind was detected in her decision to hand over her inheritance to a man whom she believed to be God. Arguing that ‘there does not appear to be a shadow of a symptom of lunacy about Miss NOTTIDGE’, the *Express* desired to record ‘an emphatical protest against any encroachment on the liberties of such harmless fools; against the irregular incarceration of any one of them on the untenable plea of madness’. The guidelines by which doctors could incarcerate ‘all whose religious tenets appear to them absurd’, was as ‘monstrous’ and as ‘susceptible of being perverted to the most selfish and dishonest oppression’ as the ‘power of priests and inquisitors to incarcerate and seclude for heresy’.

*v. Not for punishment, but for safety*

Since the late-eighteenth century, the consolidation of the profession of psychological medicine had necessitated an overhaul in the system of asylum care, the implementation of national legislation, the publication of journals, and the expansion of professional associations. However any self-conscious belief that the profession had attained public admiration and their physicians a heightened professional status for securing lunacy under their autonomous legal and medical control was directly challenged by the Lord Chief Baron’s *dicta*. As a result of the ruling and widespread public discontent, the physicians who had signed orders for Nottidge’s committal to Moorcroft asylum and the Commissioners who were involved in the case rallied to defend their credibility and integrity against what they perceived as unwarranted accusations.

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and the proprietors of the asylums that they were inspecting and licensing. The apparent collusion witnessed in the Nottidge case contributed to a climate of suspicion which was to mark the relationship between the press and the profession of mental science throughout the nineteenth century. Donnelly, *Managing the Mind*, p.19. See also Parry-Jones, *Trade in Lunacy*, pp.9-10.

<sup>55</sup> *The Times*, 30 June, 1849, p.7.

<sup>56</sup> *Express*, 30 June, 1849, p.3.



In the *Journal of Psychological Medicine and Mental Pathology*'s 'call to arms', one writer expressed concern that the praiseworthy accomplishments of the profession of mental science had been overlooked. Though pointing 'triumphantly to the splendid works on insanity [...] to the diminished mortality among the insane, and to the vastly-increased proportion of cures which have been effected', the journal was forced to acknowledge that the psychiatric profession had been treated 'as though it deserved punishment rather than gratitude [...] Every opportunity of blame, deserved or undeserved, is eagerly seized upon by the organs of public opinion'.<sup>57</sup> The medical profession, the *Lancet* was similarly aggravated to note, was 'looked upon as having an overweening desire to prove all the world mad'.<sup>58</sup> If such sentiments 'were allowed to dominate unreprieved, the humanity-mongers would soon degrade the treatment of insanity into a branch of quackery, for none would be held fit to treat the insane but those willing to bow to the prejudices of ignorance and jealousy'.<sup>59</sup>

The origin of such an 'over-excitement of the public mind on this topic' of insanity was grounded in what the journal saw as 'an excess of the benevolent sentiments for those afflicted with insanity'. Combined with 'a natural sensitiveness on the question of the liberty of the subject, an invasion of which, by medical men, is held in great professed horror', it was 'a humiliating fact' that the psychiatric profession was denigrated to such an extent and with apparent disregard for their evident successes. 'The public mind seems drunk, if we may so express it, with humanity upon this matter'.<sup>60</sup> Ironically, and as physicians themselves noted, the 'morbid excess of that humane feeling' was directly linked to 'the present benevolent mode of managing insane persons'.<sup>61</sup> Nevertheless, the mistrust, suspicion, and apprehension that had attended newspaper coverage of physicians' involvement in medico-legal trials, commissions of lunacy 'and in every other instance in which medicine comes before the public in connexion [sic] with insanity',<sup>62</sup> suggested that the greater fault still lay with the 'prevailing and injurious jealousy of

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57 *JPMMP*, 2 (1849), p.566.

58 *Lancet*, (1849) ii, p.127. The *Lancet* had been established in 1823 by the reformer Thomas Wakley (1795-1862).

59 *JPMMP*, 2 (1849), p.567. Widespread concern in the 1860s that the law was excessively lenient in its treatment of criminals led the *Manchester Guardian* to suggest that under 'the influence of our humanity mongers, we have nursed and fostered a race of hardened villains'. The phrase 'humanity mongers' is revealing in exposing the larger framework within which enlightened sensibility was held accountable not only for the release into the community of what physicians perceived as dangerous lunatics but also for the rise of a criminal class. See Davis, 'The London Garotting Panic', p.200.

60 *JPMMP*, 2 (1849), pp.566-67.

61 *Lancet*, (1849) ii, p.127.

62 *JPMMP*, 2 (1849), p.566.



the public towards the profession [of mental science],<sup>63</sup> and with the increasing presence of ‘pseudo-philanthropy on the subject of lunacy’. To ‘curb these excesses of humanity’ was admittedly a ‘disagreeable necessity’ but it was one to which all medical men involved in insanity must submit.<sup>64</sup>

The *Lancet* adopted the same attitude. Setting out in detail the ‘jealous regard for the liberty of the subject inherent in the present law of lunacy’ the journal argued that ‘these plain facts are alone sufficient to refute the notion that medical men bear any despotic power over the liberties of their fellow subjects’.<sup>65</sup> At the heart of the profession’s discontent was what they perceived to be ‘a tendency which has obtained in late years to appeal to the public, and make the public judges in matters medical’. From the ‘benevolent fanatic LUKE JAMES HANSARD, and poor Mr. PERCEVAL, downwards, there is hardly one officious dabbler in popular physic who does not think himself as good a judge of insanity as a PRICHARD or CONOLLY’.<sup>66</sup>

Interestingly, the ‘special jury’ were subject to criticism from all quarters except the medical journals. Both *The Times* and the *Express* objected to their decision to award such a low figure for damages.<sup>67</sup> *Fraser’s Magazine* believed that the ‘sapient jury’ were wholly unqualified to make such a decision. ‘Loose and general assertions about the hazard we are all placed in from the ineffective safeguards of the law of lunacy’, the journal suggested,

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63 *JPMMP*, 2 (1849), p.567.

64 *JPMMP*, 2 (1849), p.567.

65 *Lancet*, (1849) ii, p.127.

66 *Lancet*, (1849) ii, p.21. Luke Graves Hansard was the son of the printer of the ‘House of Commons’ Journals; John Thomas Perceval was the 5th son of the assassinated Prime Minister Spencer Perceval. In 1845 with Richard Paternoster he established the Alleged Lunatics’ Friend Society [ALFS]. He had been incarcerated in both Brislington Lodge and Ticehurst Asylum and was a vociferous campaigner for lunacy reform. See Richard A. Hunter and Ida Macalpine, ‘John Thomas Perceval (1803-1876): Patient and Reformer’, *Medical History*, 6 (1962), pp.391-95. Though it does not appear that the ALFS intervened in any official capacity in the Nottidge case, Perceval immediately and angrily responded to the accusation of being an ‘officious dabbler’. A letter published in the *Lancet* on 4 August 1849 made clear his support of the Lord Chief Baron’s *dicta*. Believing it his ‘right’ and ‘duty’ to keep the claims of authority made by physicians ‘within due bounds’, his concern lay with the ‘protection of the civil and religious liberties of my fellow-subjects; the restoration to society of many amiable and talented, though nervous and eccentric, individuals; the prevention of any person being subjected, unjustly or mistakenly, to a most cruel confinement [...] and the extension of the consolidation and protection of the spiritual authorities to the deluded and the insane’. *Lancet*, (1849) ii, p.134.

67 *The Times*, 30 June, 1849, p.7; *Express*, 30 June, 1849, p.3.



are usually sustained by reference to cases such as that of Miss Nottidge, in which a miscellaneous jury reverse the judgment of scientific men. The actual value of such verdicts is not worth the cost of the slip of paper on which they are written.<sup>68</sup>

If physicians, the journal continued, who ‘dedicated their lives to the study of mental phenomenon’ found it necessary to ‘exercise great vigilance in forming their opinions, is it likely that a jury, composed of individuals who have never had the opportunity of acquiring any exact knowledge or experience in the mysterious pathology of the human mind, can arrive at sounder conclusions [...] without even having had the advantage of testing for themselves the sanity or insanity of the plaintiff?’.<sup>69</sup> The answer, the journal thought, was self-evident.

Some members of the jury felt compelled to justify their verdict. On 2 July, a letter from a ‘Juryman’ appeared in *The Times*. The author wanted to express his support for the paper’s contention that the award represented a trifling sum ‘for the most unwarrantable and unjustifiable assault that was ever committed upon an innocent and unoffending lady’.<sup>70</sup> He pointed out that the jury were far from unanimous in their decision.<sup>71</sup> Another was so outraged at being criticised by his ‘brother juryman’ that he also wrote to *The Times* to express his opinion that the ‘defendants were actuated by the kindest motives towards their relative, the plaintiff’.<sup>72</sup> The problem, as *Fraser’s Magazine* saw it, was that the defendants’ argument had been ‘highly coloured with that sort of popular sentiment which is known to have an electric effect upon the sympathies of juries, but which has as much connexion [sic] with the real question at issue as Tenterden steeple with the Goodwin Sands’. It was on a verdict procured in this way ‘that the opinions of responsible medical men are consigned to derision and odium’.<sup>73</sup>

The threat to their authority from this ‘rampant’ and ‘vicious system’ demanded an immediate response, not only from individual physicians by writing letters to medical journals, but also from the profession as a whole. Because the case of Nottidge v. Ripley questioned the fundamental institutional framework of lunacy legislation, the Commissioners in Lunacy themselves felt obligated not only to delineate the law as they saw it, but also to remind the public that they owed a ‘debt of gratitude for their [the Commissioners] earnest and emphatic appeal to

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68 ‘The Lord Chief Baron’s Law of Lunacy’, *Fraser’s Magazine*, 40 (1849), pp.363-373 (p.366).

69 *Fraser’s Magazine*, 40 (1849), p.367.

70 *The Times*, 2 July, 1849, p.8.

71 *The Times*, 2 July, 1849, p.8.

72 *The Times*, 5 July, 1849, p.5.

73 *Fraser’s Magazine*, 40 (1849), p.367.



the law and to common sense against what every one must now see was a very hasty and ill-considered perversion of justice'.<sup>74</sup>

The *Lancet* agreed:

A lunacy seems to have seized the judges. We do not hesitate to declare that, during the last two or three years, decisions have been pronounced from the bench respecting insanity which must make our jurisprudence upon this subject the laughing stock of the civilized world.<sup>75</sup>

When rumours soon circulated that the case might be tried over again, it was suggested in the journal that such an opportunity would 'be afforded to judicial wisdom of rectifying the errors formerly committed'.<sup>76</sup> As it became clear that such an opportunity was not to be afforded, the medical establishment stepped up its defence of what they now perceived to be their precarious authority. The 'humanity-mongers' had hailed the Lord Chief Baron's *dicta* as the dawn of a humane and libertarian attitude to those on the borderlands of madness, to those who seemed eccentric, or to those who held anti-establishment or irreligious views and opinions. Yet physicians expressed horror at the probable consequences of such a decision. A spectre of uncontrollable chaos and disruption was proffered by a writer in the *Lancet*:

the number of persons threatened with mental disease, instead of being subjected to proper treatment and control, will go on to hopeless and incurable insanity [...] medical men will be chary of giving certificates even in undoubted cases; the commissioners will have their authority overturned, and the whole question of sanity or insanity will be launched out into uncertainty. Under a pretended deference for the liberty of the subject, or an affected horror for practices in lunatic asylums which have not existed in many years, thousands of helpless creatures will be consigned to sharpers and swindlers, and the peace of families in which there are persons of unsound mind harassed to an extent which can scarcely be conceived.<sup>77</sup>

Lord Shaftesbury was so shocked by the verdict and the widespread public denigration of his colleagues that he wrote a letter of protest to the Lord Chancellor. He felt that the law

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<sup>74</sup> *Lancet*, (1849) ii, p.211.

<sup>75</sup> *Lancet*, 2 (1849), p.211. Though the *Lancet* was envisaged by Wakley as an entirely new forum in which quackery and charlatanism, and corruption at the heart of medical establishment could be exposed, the journal gave crucial support to the physicians involved in the case. Much space was given to a condemnation of the charges that were threatening the autonomous status of physicians in the field of lunacy.

<sup>76</sup> *Lancet*, (1849) ii, p.211.

<sup>77</sup> *Lancet*, (1849) ii, p.42.



regulating the care and treatment of lunatics had been misinterpreted, if applied at all, in the Nottidge case. The consequences would be catastrophic, not only for Louisa Nottidge, but for the health of society as a whole: 'Certain dicta and opinions which have recently been attributed to the Lord Chief Baron', he wrote, and 'appear to us so seriously to affect the interpretation and application of the law by which we are governed, that we feel called upon by a sense of duty to point out in this letter [...] the great evils to society which would ensue from their acceptance and adoption as a practical rule'.<sup>78</sup> The 1845 Act for the Care and Treatment of Lunatics, he argued, was not limited to any particular class of lunatic. The word 'lunatic' in fact was defined in the Act (as well as in the County Asylums Act of 1828) as every insane person being an idiot or lunatic, or of unsound mind. Lord Shaftesbury wanted to make it explicitly clear that the object of the Act in question was not to arbitrarily confine lunatics, but to restore to them a healthy state of mind, as well as 'to afford comfort and protection to the rest'.<sup>79</sup>

The point he wished to make on behalf of his commissioners was that those lunatics considered dangerous to themselves or others were relatively few in number. The more predominant classes of lunatic presently held within asylums were those who were incapable of self-government and so required supervision and control, and those who were incapable of taking care of themselves and so were likely to sustain serious injury if unprotected. 'It may be reasonably asked', he wrote, 'what would become of all these large classes of the insane if set at large, in conformity with the Lord Chief Baron's opinion?'.<sup>80</sup> *Fraser's Magazine* had already penned an answer:

If this opinion of his lordship's were to be carried into effect, the result would probably be the liberation of nine-tenths of the insane persons who are at this moment detained in lunatic asylums, because, being under treatment, they undeniably do not come within the description of persons who are dangerous to themselves or others. But in recommending the commissioners to throw open the doors of the asylums and let out this crowd of détenus, his lordship overlooked one important consideration, namely, that in a few weeks after their liberation the majority of these unfortunate persons would be tolerably sure to qualify themselves for re-admission, by becoming as dangerous to themselves and others as even his lordship could desire.<sup>81</sup>

The *Lancet* was only slightly more sardonic:

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<sup>78</sup> *JPMMP*, 2 (1849), p.608.

<sup>79</sup> *JPMMP*, 2 (1849), p.609.

<sup>80</sup> *JPMMP*, 2 (1849), p.609.

<sup>81</sup> *Fraser's Magazine*, 40 (1849), pp.370-371.



If the Commissioners of Lunacy are to act upon this opinion, and monomaniacs not dangerous to themselves or others are to be treated as sane, why it just comes to this [...] There should at once be a general asylum-delivery throughout the kingdom. Hanwell should give up its kings and queens, its emperors and popes, for none of them could be pronounced insane [...] Certainly, the whole medical profession should at once set about reforming its notions of what constitutes insanity. We can fancy PINEL or ESQUIROL, aghast at such a revolution.<sup>82</sup>

It was the ‘most lamentable’ consequences of such an ‘asylum-delivery’ that most concerned Lord Shaftesbury. While the Commissioners might promote the liberty of the patient if he or she had a caring family and comfortable home to return to, if this was not the case there was absolutely no justifiable reason for removing the patient from the ‘shelter’ of an asylum and abandoning him or her, unprepared, to the outside world. Even if there *was* a home to return to, such an environment represented ‘every disadvantage to [lunatics who would] [...] be the cause of great and unnecessary expense, and of inexpressible annoyance to their families’.<sup>83</sup> Lord Shaftesbury’s letter highlighted the often overlooked fact that mental derangement was not situated solely in the domain of the patient-physician relationship. Families and sometimes larger communities, it becomes clear, were influential factors in the decision made by doctors to consign lunatics to asylums. Because ‘the habits and general conduct of patients under the influence of mental disease’,

are frequently so violent, and at times so offensive, that it would be to the last degree cruel and unjust to expose the other members of the family to them; more especially when there are children, whose minds might receive a shock, and perhaps be incurably injured, by continually witnessing the paroxysms or [...] extravagances of a lunatic.<sup>84</sup>

John Conolly was in absolute agreement. The judge’s ruling, he respectfully argued in his *Remonstrance with the Lord Chief Baron* (1849), was ‘far too limited for the welfare of society, for the comfort of private families, and for the protection of many harmless insane persons’.<sup>85</sup> His lordship’s opinion, Conolly believed, was ‘mistaken’ and ‘extensively mischievous’. It was not the ‘dangerous lunatic alone who requires to be placed in an asylum. A rule for safe general guidance must have a wider extent’.<sup>86</sup> The ‘tranquillity of his [the lunatic’s] family, or his neighbours, or

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82 *Lancet*, (1849) ii, p.21.

83 *JPMMP*, 2 (1849), p.612.

84 *JPMMP*, 2 (1849), p.612.

85 Conolly, *Remonstrance*, p.6.

86 Conolly, *Remonstrance*, pp.5-6.



society' were factors as important as his own protection in the consideration of whether or not to send him to an asylum, even if it was the case that he suffered from only excessive eccentricity or extreme feebleness of mind.<sup>87</sup> People of this kind, Conolly argued,

may not endanger their lives, or those of others, but their being at large is inconsistent with the comforts of society [...] and it is imperatively necessary that they should be kept and watched [...] If the Commissioners, acting according to your Lordship's advice, were to liberate all such people, they would, indeed, "let Bedlam loose," bring affliction on a thousand families, and even throw society into confusion.<sup>88</sup>

Though reflecting contemporaneous psychiatric opinion, seen in the context of his earliest writings, Conolly's comments represent a striking change of opinion. In *Indications of Insanity* (1830) Conolly had dissented from the traditional orthodoxy by suggesting that lunatics were committed to asylums indiscriminately, that certificates were heedlessly signed and that asylums were thus silting up with harmless and eccentric patients. The isolation of the lunatic was, he had written, 'repugnant to every idea of rational freedom which all ought to enjoy, that a man should not do as he chooses with his time, or his property, so long as he does not inflict direct injury on others'.<sup>89</sup> As Helen Small has suggested, his change in philosophy resulted from acquiring the status, but not the wealth, he had hoped for in the course of his professional career. As a result, he had been forced to turn not only to testifying as an expert witness in lunacy commissions and in medico-legal trials, but to the private 'trade in lunacy', establishing his own asylum, Lawn House.<sup>90</sup> Considering the striking abnegation of his early libertarianism, it was perhaps surprising that the press did not make more of his *Remonstrance*, especially considering his remark that the 'comments of the newspapers on the conduct of the Commissioners [...] have been equally injudicious, as well as unjust'.<sup>91</sup>

The writer in *Fraser's Magazine* thought that the 'great truth in reference to insanity which the public had yet to comprehend' was that 'benevolence' to the suffering individual and 'justice' to society, far from being equated with the Lordship's *dicta*, was to be found in the implementation of methods for restoring the health of the mind. Yet ironically, there was no legal

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87 Conolly, *Remonstrance*, p.7.

88 Conolly, *Remonstrance*, p.9.

89 John Conolly, *An Inquiry Concerning the Indications of Insanity with Suggestions for the better Protecting and Care of the Insane* (London: John Taylor, 1830), p.139.

90 Helen Small, *Love's Madness: Medicine, the Novel, and Female Insanity, 1800-1865* (Oxford: Clarendon Press, 1996), p.54.

91 Conolly, *Remonstrance*, p.5.



basis underpinning the medical profession's argument that the main and primary object of confinement was the treatment of mental disease. As John Charles Bucknill, a contemporary of Henry Maudsley (Conolly's father-in-law), pointed out, the 'sole purpose of the law is to provide for the safety of the public and the individual'.<sup>92</sup> Devoting a chapter of *The Care of the Insane* (1880) to the Nottidge case, he explained how the law was written and why in cases when there was no danger, confinement was actually illegal. Though the actions of the Commissioners (in confining Louisa Nottidge in an asylum) were 'thoughtful and humane', they were illegal purely because of the 'shortcomings of the statute'.<sup>93</sup>

Bucknill concluded that the law was 'smothered in its own absurdity' because it 'expressed the lawyer's view of interference with the insane, founded upon the facts of life when society was young and simple, in opposition to the doctor's view of what must be done to prevent mischief among the tender and complex interests of modern life'.<sup>94</sup> In order to smooth out the 'knotted intricacies and confusions', the term 'dangerous' needed to be codified. As it stood, 'dangerous' was interpreted by the law to mean liable to inflict physical rather than moral danger. Similarly, the term 'harmless' was not the exact opposite of 'dangerous'. It was 'impossible', Bucknill concluded, 'that this vast gap, this *casus omissus* - should be allowed to continue, throwing more than doubt upon the legality of detaining [...] any insane person who is either not dangerous or found lunatic by inquisition'.<sup>95</sup>

What the Lord Chief Baron's *dicta* ignored, and a fact overlooked by Bucknill, was the medical belief that physicians should intervene *prior* to an alleged lunatic becoming 'dangerous'. As *Fraser's Magazine* asked, if the 'asylum is to be maintained merely as an hospital for violent or suicidal lunatics, what curative means does his Lordship propose to establish for the treatment of lunatics in the earlier stages of the disease?'.<sup>96</sup> Without attention, 'many of these cases go on to absolute insanity' and by 'early care this terrible end is generally averted',<sup>97</sup> While families and friends of lunatics thought that they were acting with the greatest benevolence by regarding the lunatic's strange actions as merely harmless eccentricities (and thus keeping him or her at home),

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92 John Charles Bucknill, *The Care of the Insane and their Legal Control* (London: Macmillan, 1880), p.47.

93 Bucknill, *The Care of the Insane*, p.53.

94 Bucknill, *The Care of the Insane*, pp.53-54.

95 Bucknill, *The Care of the Insane*, p.57.

96 *Fraser's Magazine*, 40 (1849), p.371.

97 Conolly, *Remonstrance*, p.10.



they were in fact abandoning ‘unfortunates’ to their fate.<sup>98</sup> As Conolly put it, the lunatic would be ‘condemned to a domestic imprisonment, more secret, and in every respect more objectionable than confinement in a lunatic asylum’.<sup>99</sup> The most effective means of preventative treatment demanded ‘a change of scene, variety, amusement, and occupation’,<sup>100</sup> and the detachment of the lunatic from ‘scenes and associations in the midst of which his disorder has arisen’.<sup>101</sup> Physicians felt that these necessities could be achieved only in the site of the lunatic asylum.

The circumstances of Louisa Nottidge’s case, Conolly felt, were ‘strikingly illustrative of the peculiar danger of leaving imbecile, visionary, and fanatical women at large, particularly if possessed of property’. He was firm in his belief that she needed protection ‘not because she cherished delusions, but because those delusions were inconsistent with the safety of her person and the security of her property’.<sup>102</sup> By being committed to an asylum (‘the proprietors of which are known to be distinguished for liberality and kindness’),

the delusions might have died away, and a sense of duty have returned: her habits would at least have been regulated, all excess avoided, all painful exposure prevented; the patient would have been screened from all possible harm, and her property from pillage.<sup>103</sup>

This paternalistic authority was to mark the medical profession’s defence of their actions. It also positioned them in direct opposition to the public’s entrenched belief in the liberty of the subject, and to the law concerning the confinement of the insane. Though physicians argued that the lunatic asylum represented a form of ‘safe liberty’ from what was perceived to be a world full of ‘fanatics and swindlers’ and ‘sanctimonious knaves’, the vivid evocation of the dangers that lay beyond the walls of a lunatic asylum did not encourage a more generous public feeling towards psychological physicians and towards the Commissioners in Lunacy.

Conolly thought that all ‘the dishonourable and blasphemous parts of these strange transactions’ had been overlooked. This was all the more shocking because it had taken place ‘in a country where an appearance of honesty and general morality is at least generally respected!’.<sup>104</sup>

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<sup>98</sup> *Fraser’s Magazine*, 40 (1849), p.369.

<sup>99</sup> Conolly, *Remonstrance*, p.8.

<sup>100</sup> *Fraser’s Magazine*, 40 (1849), p.370.

<sup>101</sup> *JPMMP*, 2 (1849), p.612.

<sup>102</sup> Conolly, *Remonstrance*, pp. 15, 13.

<sup>103</sup> Conolly, *Remonstrance*, p.14.

<sup>104</sup> Conolly, *Remonstrance*, p.18.



The lunatic asylum, as the only place where her property would be adequately secure against the possibility of ‘legalised robbery, and her person from the possibility of legalized prostitution’ had, Conolly remonstrated, been ‘censured with all the dignity of the bench’ and with ‘all the fervour of the press [...] as an outrage not to be tolerated’.<sup>105</sup> They rejoined, to the vociferous accusations of despotism, and to what they regarded as ‘absurd charges constantly made in the public press, and in society, not to mention the judicial bench’,<sup>106</sup> that it was their *duty* ‘to step forward in opposition to prejudices which, although associated with kind and liberal feelings, are full of mischief and danger’.<sup>107</sup> It was for this reason that they confined Louisa Nottidge, against her will, in Moorcroft Asylum, and responded so ferociously to public condemnation.<sup>108</sup>

In an unusual conclusion to the case, after Nottidge’s death on August 21, 1858 her brother, Ralph Clarke Nottidge, acting as her legal representative, sued Prince in the Vice Chancellor’s Court in order to recover the inheritance that she had given him in 1849. Such a gift, made under the influence of a delusion or deception, was deemed by the court to be invalid. It was judged immaterial whether the delusions related to matters spiritual or temporal. Finding for the plaintiff and excluding the accrued interest, Prince was ordered to pay the sum of £5,728 7s 7d.<sup>109</sup>

#### *vi. Overview*

In the McNaughten case of 1843, with the support of the court the theories of psychological physicians ultimately prevailed over public opinion. In the Nottidge case of 1849, the authority of mental science was ultimately over-ruled in both the courtroom and in the court of public opinion, despite vigorous efforts to contain anxiety and to redirect blame at the ‘humanity-mongers’. Though different in many respects, both cases foreground two issues which were central to controversies over wrongful confinement throughout the course of the nineteenth century. Firstly, they both highlighted the conflict between civil liberties and safety attendant upon the sophistication of psychiatric nosologies and the introduction of partial forms of insanity such as monomania to the legal arena. Secondly, the case of Nottidge drew on and developed anxieties

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105 Conolly, *Remonstrance*, p.18.

106 *Lancet*, (1849) ii, p.127.

107 Conolly, *Remonstrance*, p.20.

108 After Prince died in 1898, the mantle of the Agapemone was passed to Rev. John Hugh Smyth-Piggot in 1902. As the residents grew older, the sect gained a degree of respectability within the community. In 1958 the Chapel was sold and renovated as a retirement home. In the early 1990s it was sold as a private residence. It has never been a tourist attraction and was put on the market with no reference to its coloured past. This information has been kindly provided by the Taunton Board of Tourism.

109 *All England Law Report*, 1843-60, p.765.



raised both during and after the McNaughten trial about the potential dangers implicit in the use of a sentimental rhetoric of humanitarianism. Yet as this chapter has also demonstrated, monomania and the rhetoric employed both inside and outside the courtroom to construct and debate issues associated with wrongful confinement were not the only areas of contentious dispute.

Central to all debates was the question of protection. No-one was free from scrutiny on this point. Physicians and the commissioners in lunacy defended themselves and the lunacy laws by arguing that the lunatic asylum was a form of 'safe liberty' which was necessary in order to protect her (and her property) from the harmful influences of Prince and his followers. To their critics, the so-called 'safe liberty' argument offered by the medical profession presented a more dangerous threat than that posed by Prince. In particular, the rights and responsibilities of lay-persons involved in the case, most notably the family and friends of Nottidge and the jury, were integral to medico-legal discussions. The question of whether the Victorian household represented a form of 'domestic imprisonment' more harmful to Nottidge (and to the comfort and protection of its inhabitants) than the asylum was as controversial as the perceived effect that the 'electric' power of popular sentiment held on the jury. In illuminating competing versions of authority, newspapers and journals commenting on the trial reinforced popular anxiety through the use of specific representational strategies appropriated from the courtroom. The power of sentiment to divert attention from what the profession of mental science perceived as the facts of the case was a cause for concern. As the following chapter will argue, the anxieties engendered by the McNaughten and Nottidge cases, particularly in regard to the relationship between representation and identification, extended to the contemporaneous treatment of monomania in fiction.



Figure 1.

'Ye Agapemone. With a Prospecte of Ye Brother and Sisters. A Playinge at Hockey.'

*Punch* (1850)





Figure 2.

Artist's impression of the Agapemone in 1850.





### Chapter Three

#### Wilkie Collins and Charles Dickens: The Dangers of 'Mad Monkton'

When Daniel McNaughten murdered Edward Drummond in 1843 it was a sensation worthy of extensive editorial comment in both the regional and national press. As the contrasting positions of the *London Illustrated News* and the *Standard* suggest, McNaughten's crime and personality were immediately constructed in relation to ideas of feeling. Both newspapers deployed particular rhetorical strategies, or 'ornaments' in order to contest the appropriateness of sentimentality and sensationalism in understanding the nature of the horrific and initially inexplicable murder. Intimacies, associations and identifications were strategically manipulated in order to control the reader's response to the crime and criminal. Yet as the conflicting responses to the Drummond murder make clear, the employment of rhetorical strategies to manipulate emotions was itself contested. The *Standard*, for example, was angered by the merciful depiction of McNaughten as himself a victim of ungovernable passions. Such a representation was bound, the paper thought, to exacerbate in the reading public 'maudlin humanity' and 'hysterical tenderness', emotions which seemingly exceeded the boundaries of acceptable identification. As the conflicting reactions to Lord Chief Baron's *dicta* in the Nottidge case also demonstrate, pity, sympathy and benevolence vied with horror, anger and fear. The coverage of both trials in the newspaper and journal press express not only a concern for the fate of the two individuals but for the dangers implicit in what was perceived to be the influence of an over-refined humanity.

As the public profile of the profession of mental science heightened through its proponents' steadfast attempts to professionalise, the encounters between the world of mental science and the reading public multiplied. Besides novels and short stories exploring psychological theories, practices and personages, sensational exposés of wrongful confinement in lunatic asylums (like Nottidge's) and medico-legal and criminal trials (such as McNaughten's) all contributed to an increasingly problematic relationship between the profession of mental science and their critics which was played out most dramatically in print. In terms of legal rulings determining control of the lunatic, courtrooms and the Houses of Parliament were the sites of verbal contestation in which competing forensic arguments sought to influence judges and juries. Yet outside the confines of the courtroom, no such legal strictures could control the flurry of correspondence and editorial comment. It became not solely a medico-legal conflict centring on the claim to treatment of and authority over the lunatic, but more dramatically a battle between journals and papers for the public's good opinion and for their *emotions*. It was a battle, no less formative than medico-legal trials and their consequent rulings themselves, of words, associations and images.

Whether fictional or factual, narratives relied on the rhetorical play of words and images as well as the production of historically and culturally-grounded associations to construct a range of



representational strategies which sought to guide the reader through particular issues, ideas and beliefs which were troublesome, difficult or contentious. The representational boundaries that texts constructed naturalised the differentiation between socially and culturally acceptable behaviors, values and beliefs and those which were deemed unacceptable, immoral or excessively affective. Yet as Ludmilla Jordanova makes clear, this process of mediation could never be a passive process because such discourses, she argues, were 'never simple descriptions or reflections of an actual state of affairs'.<sup>1</sup> From production to consumption, the meaning of texts - their ideas and assumptions - encountered obstacles that effected their transformation. Their meaning could never be fixed or static because, as Jordanova puts it, both the production and reception of texts 'are themselves practices deeply embedded in the social, economic, and political orders [...] ideas and the means by which they are expressed, act as mediations on the social conditions in which they exist'.<sup>2</sup>

During a period when the 'appetite for printed paper [was] morbid and universal',<sup>3</sup> the increasing availability and accessibility of both novels and newspapers necessitated an acute interest in (and anxiety about) the authority to control identification with, and reception of, the written word. The complex relationship between writing and representation and reading and identification in the nineteenth century is particularly interesting in regard to the fraught reception of the theories and practices employed by psychological science to demarcate and so control the spectre of lunacy. In *Criminal Conversations* (1998), Laura Hanft Korobkin examines courtroom story-telling in nineteenth-century America and explores the way in which the legal process, traditionally characterised by objectivity, logic, and masculine rationality, was in fact permeated by rhetorical strategies of sentimentality. Providing judges with a set of ostensibly literary narratives which engaged jurors' deepest emotions, Korobkin argues that framing legal arguments through sentimental stories enabled lawyers in adultery cases to establish new legal definitions of spousal obligation which encouraged female empowerment.<sup>4</sup>

Korobkin's argument is relevant to the larger argument of this dissertation. The rhetorical strategies of sentimentality, used by lawyers to teach jurors to 'read' cases, exhibit many similarities to the ways in which fiction writers used specific narrative strategies in their attempts to control the interpretation and reception of their novels and short stories. She suggests that

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1 Ludmilla Jordanova, *Sexual Visions: Images of Gender and Science in Medicine between the Eighteenth and Twentieth Centuries* (Madison, Wisconsin: University of Wisconsin Press, 1989), p.5.

2 Ludmilla Jordanova, *Nature Displayed: Gender, Science and Medicine 1760-1820* (London: Longman, 1999), p.3.

3 'Publishers Circulars and Literary Advertisements for 1854', *British Quarterly Review*, 21 (January 1855), pp.158-181 (p.158).

4 Laura Hanft Korobkin, *Criminal Conversations: Sentimentality and Nineteenth-Century Legal Stories of Adultery* (New York: Columbia University Press, 1998), p.12-16.



while jurors undoubtedly drew on personal experiences, their interaction with literary experiences was a process actively encouraged by lawyers because of the way in which a literary mode like sentimentality provided a shared (and thus powerful) interpretive system. Paying attention to some of the concerns and interests of Korobkin, particularly the problems of credibility attendant on the necessary conflation of fact and fiction in the construction of rhetorical strategies, this chapter will examine 'Mad Monkton', a short story published in 1855 by Wilkie Collins. Through a narrative which traces irrational obsessions, reasonable investigations, superstitious prophecies and partial insanity, the reader gradually descends, guided by the fragile rationality of the narrator, into a gothic world of spectres and 'supernatural warrant[s]'.<sup>5</sup>

This chapter will argue that monomania, as a partial form of insanity, plays a central and complex role in illuminating the cultural anxieties arising from the contested boundaries separating socially-acceptable rhetorical strategies and narrative content from stories and strategies which attempted to extend or reformulate the limits of narrative representation. Though certainly reflective of anxieties about the consequences of monomania on the body and mind of the sufferer, as well as the social world which the monomaniac inhabits, the story represents more than just a reflection of the concern that monomania engendered in the cultural imagination of nineteenth-century society. Both the story itself and the circumstances of its publication offer a fascinating insight into the way in which Collins problematised the relationship between representation, identification, and emotional reception demanded by the nature of shared interpretive systems, systems that were vitally important to Collins's friend and mentor, Charles Dickens.

This chapter is divided into three sections. The first section details the story itself, paying particular attention to the role of the narrator in collapsing the distinction between the recognisable and the unrecognisable fictional worlds that Collins constructs. The second section will examine the reasons underlying Dickens's concern with the effect that Collins's story might have on the readers of *Household Words*. The gradual repeal of 'taxes on knowledge' or the democracy of print (advertisement duty in 1853, stamp tax in 1855, and paper duty in 1861<sup>6</sup>), the advances taking place in paper and printing technologies, the increase in literacy and the rise of library circulation throughout the nineteenth century all positioned novel-reading as a leisure activity accessible and attractive to a large number of Victorians. As Collins and Dickens both knew, the very attractiveness of fiction was its ability to foster in readers intense and dangerous emotional impulses.

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5 Wilkie Collins, 'Mad Monkton', in *Wilkie Collins - Mad Monkton and Other Stories*, ed. by Norman Page (Oxford: Oxford University Press, 1994), p.68. Further page references are contained within the text.

6 Altick, *The English Common Reader*, p.341.



Though novels, as cultural artifacts designed for popular consumption (whether read for pleasure, elevation, instruction or escape) enabled Victorians to acquire a greater understanding of the world around them, they simultaneously opened imaginary worlds for their readers which did not necessarily follow the way the 'real' world actually worked. When Eleanor Vane in Mary Elizabeth Braddon's *Eleanor's Victory* (1863) passionately declares vengeance for her father's mysterious death, she is warned against the folly of blurring reality and fiction: 'Life is not a three-volume novel or a five act play, you know, Nelly. The sudden meetings and strange coincidences common in novels are not very general in our everyday existence'.<sup>7</sup> Such imaginary worlds apparently held the power to inculcate deviant values, influence behaviors and to produce unhealthy introspection and excitable tendencies. As this example make clear, and as 'Mad Monkton' will demonstrate, reading - the affective power of words - was perceived as both thrilling and dangerous. Contrasting 'Mad Monkton' to Dickens's response to several other short stories, it becomes clear that he turned down Collins's story because it violated shared systems of representation and emotional identification. His decision reflected his concern for the influence that Collins's fictional treatment of monomania would have on readers.

The 'popular craving for excitement' was reinforced not only in fictions but in factual narratives published in periodicals and newspapers. Though fundamentally divergent in intention, relying on and relaying distinctive versions of narrative structure and authority (which were defined by the particular though not mutually exclusive demands of entertainment, information and instruction), both fictional and factual narratives relied upon verbal and visual devices to excite particular emotions, sentiments and affective identifications. As this chapter will demonstrate, the concerns expressed in the newspaper coverage of the McNaughten and Nottidge cases about the dangers of excessive identification were identical to those of Dickens.

The third and final section of this chapter examines both the role played by monomania in complicating the way in which each writer conceived of their responsibility to their readers and considers more generally the problems posed by fictionalising contemporaneous medical diagnoses.

#### *i. 'Mad Monkton'*

As he indicates early on in his account of the Monktons of Wincot Abbey, the family whose story the narrator recounts 'bore a sad character of want of sociability' (p.39) in their neighbourhood. It was 'enough to say' that their lack of sociability derived from the 'horrible affliction of hereditary insanity' (p.39). The '*illness*, as it was significantly called' (p.40) was believed by most to have been

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<sup>7</sup> Mary Elizabeth Braddon, *Eleanor's Victory* (Stroud, Gloucs.: Alan Sutton, 1996), p.95. Eleanor's suspicions were fostered after reading a novel by Paul Feval: 'There were villains and rascals paramount throughout this delightful romance; and there was mystery and murder enough for half a dozen novels [...] the trouble in the book seemed to become a part of the trouble in her own mind, adding its dismal weight to her anxieties'. Braddon, *Eleanor's Victory*, p.46.



in decline for many years due to its 'careful treatment'. Yet the narrator's father, one of the Monkton family's few friends, was not deceived. When rumours circulate that the future heir to the country estate, Alfred Monkton, was to become engaged to his 'delicate, gentle, lovable'(p.40) ward, Miss Elmsie, 'he viewed with horror the bare possibility' of the lurking 'hereditary taint [...] reappearing one day in the children of his friend's only daughter'(pp.40-41). After he refuses his consent to the marriage friendly intercourse between the families ceases. However, following his death, the engagement is again ratified. 'Polite hints'(p.42) once more circulate about the suitability of the match, 'hints' that friends 'were unwilling to specify distinctly'(p.42) yet which she responded to as 'infamous calumnies' against the 'best, the kindest, the sanest of human-beings'(p.42). When Miss Elmsie left for the continent to recover from an illness, the rumours did not cease. Rather, they shifted to Monkton, 'living as suspiciously strange and solitary a life as his father had lived before him'(p.43):

Civil visitors called resolutely at the Abbey, and were resolutely bowed away [...] Under this combination of sinister and aggravating circumstances, people in all directions took to shaking their heads mysteriously when the name of Mr Alfred Monkton was mentioned, hinting at the family calamity, and wondering peevishly or sadly, as their tempers inclined them, what he could possibly do to occupy himself month after month in the lonely old house (p.43).

Monkton's mysterious actions, including standing on the 'perilous summit of one of the crumbling turrets'(p.44) and forcing open closed windows, lead to the widespread belief that he was 'sinking rapidly, if he had not already succumbed, under the hereditary curse of his family'(p.44).

At this point, the narrator travels to the continent in order to instruct and amuse himself. While in Naples, he hears that Monkton had suddenly and without explanation broken the marriage engagement to Miss Elmsie, and was in Naples on what an acquaintance described as an 'insane purpose'(p.46): to seek out the remains of his dissolute uncle, Stephen Monkton, who had died in an illegal duel 'somewhere outside' the Neapolitan States. The narrator learns that Monkton was considered to be mad. He had 'squandered his money, pestered the police, exposed himself to the ridicule of the men and the indignation of the women'(p.46), becoming in what was a 'dull opera season'(p.46) the 'principal excitement'(p.46). Though struck by Monkton's 'dark, eager eyes, the colourless cheeks, [and his] strangely vigilant, anxious expression'(p.45), the narrator pays little attention to the 'hearsay' generated by Monkton's 'precious errand'.(p.47) Though warned that if he touched 'the subject of his vagabond of an uncle, [...] the Monkton madness comes out directly'(p.47), he became increasingly intrigued by the discrepancy between an acquaintance's description of Monkton as mad and his acknowledgment that Monkton 'talks like a sensible, well-educated man [and appears] [...] the gentlest and most temperate of human beings'(p.47).



Although ‘astonished’ by Monkton’s ‘earnestness and agitation’(p.48) the narrator could not ignore the fact that Monkton’s talk held ‘no trace of anything the least like insanity about it’(p.48). His manner, the narrator concludes, ‘was in itself a standing protest against such a nickname as “Mad Monkton”. He was so shy, so quiet, so composed and gentle in all his actions that at times I should have been almost inclined to call him effeminate’(p.48). Their developing ‘intimacy’ is marred, however, by Monkton’s two ‘eccentricities’(p.49): the ‘odd expression in his eyes’ and the fact that he never referred to his fiancée, Miss Elmsie, or his life at Wincot Abbey. An explanation is provided when Monkton suddenly takes the narrator into his confidence. Entreating him to ‘try to pass over for the present whatever may seem extraordinary and incomprehensible’(p.53), Monkton explains to the narrator that in the attic of the Abbey he had discovered papers relating to an ancient family prophecy which predicted the extinction of the Monkton family unless all family members are buried in the vault under the Abbey’s chapel. Monkton explains that he has traveled to Naples under a ‘supernatural warrant’ in order to prevent the fatal outcome of the curse by finding his uncle’s body and returning it to the vault.

To the narrator, Monkton’s interpretation of the prophecy as ‘the warning of his own doom’(p.67) looks increasingly ‘like insanity’(p.58), a belief that is confirmed when Monkton describes to him the constant presence of a strange apparition who he believes is the ghost of his uncle. Though he sought to give the narrator ‘some reasonable explanation’ of his conduct, the opposite effect is produced: ‘All the suspicions I had ever heard whispered against his sanity flashed over my mind in an instant’(p.52) The narrator starts thinking about ‘the extent of his madness, or, to speak more mildly and more correctly, of his delusion’(p.71):

Sane he certainly was on ordinary subjects; nay, in all the narrative parts of what he had said to me [...] he had spoken clearly and connectedly [...] It was plain that the real hallucination [...] lay in Monkton’s conviction of the truth of the old prophecy, and in his idea that the fancied apparition was a supernatural warning to him to evade its denunciations. And it was equally clear that both delusions had been produced, in the first instance, by the lonely life he had led, acting on a naturally excitable temperament, which was rendered further liable to moral disease by an hereditary taint of insanity [...] I firmly believed, as a derider of all ghost stories, that Alfred was deceiving himself [...] and I was on this account therefore uninfluenced by my unhappy friend’s delusions (pp.71-72).

Though he refers often to his ‘astonishment’(pp.48,57), to his fear of Monkton’s appearance, which looked ‘so much like madness [...] that I felt afraid to ask him about it, and always pretended not to observe him’(p.49), to his ‘dread’(p.62) and to his ‘loss of possession’(p.63), the narrator is unable to resist ‘aiding him to execute his extraordinary purpose’(p.71). Pity overrides prudence and he accepts Monkton’s plea for assistance. To the ‘near universal suspicion that [he] must be as mad in [his] way as Monkton himself’(p.72) they venture outside the Neapolitan states in search of the body. To save time, they separate. Following clues provided by a newspaper report of the duel, the narrator eventually finds Stephen Monkton’s body at a ‘dark, low, sinister-looking’



convent. Though willing to assist Monkton, 'humouring his delusions to the last' (p.69), it becomes apparent that he himself 'struggles' to deny the reality of the 'strange discoveries' and the 'wild fancies' (p.64) initiated by the discovery of the prophecy in the attic of Monkton Abbey.

Upon the discovery of the unburied body, the narrator's cool rationality collapses. Yet it 'was something more than the hideous spectacle unexpectedly offered to my eyes which had shaken my nerves'. The forced questioning of his practical point of view is overwhelming: 'I began to almost doubt the evidence of my own senses, when I reflected upon the apparently impracticable object with which we had left Naples' (p.87). He fears Monkton's response to his discovery, yet equally his own 'self-possession' (p.88). Though the body is safely transferred to the leaden coffin, calamity strikes when the coffin and body are lost during a storm on the return journey to England. This precipitates further disaster as Monkton succumbs to 'brain fever'. Though they safely return to England, his illness 'exercised the strangest influence over his faculties of memory' (p.102) and he never again recognises the narrator nor recalls the obsessions, passions and terrors experienced by both of them during their quest. The story concludes with Monkton's death, the tragic fulfillment of the ancient family prophecy.

## ii. Dickens and 'Mad Monkton'

'The Monktons of Wincot Abbey' as it was initially entitled was written in 1853 for Dickens's *Household Words*. It is striking for its engagement with notions of manliness and masculinity through its powerful evocation of illicit obsession, fear and desire.<sup>8</sup> Yet of equal significance is the way in which Collins boldly conflates two seemingly incompatible discourses and frames of reference: gothic romance and contemporary psychiatric theories of partial insanity. Dickens, who had established *Household Words* in 1850 to compete with *Blackwood's*, was clear about the social and moral purpose of the weekly periodical.<sup>9</sup> In the first volume he declared to his readers that they would discover nothing in his new journal that would render them 'less ardently persevering in ourselves, less tolerant of one another, less faithful in the progress of mankind, less thankful for

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<sup>8</sup> I am referring here to the text's references to effeminacy, suggestive as a euphemism for homosexuality. See Norman J. Vance, *The Sinews of the Spirit: The Ideal of Christian Manliness in Victorian Literature and Religious Thought* (Cambridge: Cambridge University Press, 1985), pp.38, 112.

<sup>9</sup> Dickens to Rev. James White, 5 February, 1850. *The Letters of Charles Dickens*, ed. by Graham Storey, Kathleen Tillotson and Nina Burgis, 11 vols (Oxford: Clarendon Press, 1988), 6 (1850-52), p.30.



the privilege of living in the summer-dawn of time'.<sup>10</sup> On receiving Collins's story, however, Dickens was hesitant about its place within *Household Words*.

Dickens was in thrall to what he perceived as the sensitive natures and values of his middle-class audience. The editorial staff of *Household Words* welcomed stories and articles that were instructive, educative, amusing, or sentimental. Stories and articles which held even the *potential* to unnecessarily offend, depress, anger or over-excite readers were rejected outright or returned to their authors for re-writing. In early 1855, for example, the offices of the journal received a short story written by Louisa Lucy Juliana King (the daughter of Joseph Charles King, the headmaster of Dickens's sons' school). Dickens's doubts about the suitability of the story for *Household Words* arose partly from 'the nature of the interest' which he believed required its publication in a single volume, and partly from her manner of relating the tale itself. One of the young character's language, for example, was 'a little too "slangy"':

I know the kind of boyish slang which belongs to such a character in these times; but, considering his part in the story, I regard it as the author's function to elevate such a characteristic, and soften it into something more expressive of the ardour and flush of youth, and its romance.<sup>11</sup>

Dickens's detailed comments betray his characteristic desire to seduce or 'soften' the reader through the elevation of 'fancy' and 'romance'. Though their correspondence continued, Miss King's story never appeared in *Household Words*. Such injunctions did, however, occasionally lead to an agreeable compromise, as the correspondence between Dickens and Emily Jolly demonstrates. Jolly had submitted 'A Wife's Story' to the journal only a few months before Collins submitted 'Mad Monkton'. The gentle admonition reserved for King was replaced by enthusiastic praise. Dickens believed that the story held 'great merit and unusual promise' particularly because it displayed 'so much power and knowledge of the human heart'.<sup>12</sup> Yet he still entreated Jolly to rethink the scene of the familial 'catastrophe'. In this central scene the 'spiritually dark',<sup>13</sup> wife (who believes that she is intellectually superior to her faith-driven husband) is told of the deaths of

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10 [Charles Dickens], 'A Preliminary Word', *Household Words*, 30 (March 1850), p.1, reprinted in *Dickens' Journalism*, ed. by Michael Slater, 4 vols (London: J. M. Dent, 1996), II, *The Amusements of the People and Other Papers: Reports, Essays and Reviews, 1834-51*, p.177.

11 Dickens to King, 9 February, 1855. *The Letters of Charles Dickens*, ed. by Graham Storey, Kathleen Tillotson and Angus Easson (Oxford: Clarendon Press, 1993), 7 (1853-55), p.529.

12 Dickens to Miss Emily Jolly, 17 July, 1855. *The Letters of Charles Dickens*, 7, p.677.

13 [Emily Jolly], *A Wife's Story and Other Tales*, 3 vols (London: Hurst and Blackett, 1875), I, p.70.



her husband and children. Her subsequent grief is viewed as punishment for her arrogance. Dickens thought such a conclusion was 'unnecessary painful' and believed that it would

throw off numbers of persons who would otherwise read it, and who (as it stands) will be deterred by hearsay from doing, and is so tremendous a piece of severity, that it will defeat your purpose. All my knowledge and experience, such as they are, lead me straight to the recommendation that you will do well to spare the life of the husband, and of the children [...] So will you soften the reader whom you now as it were harden, and so you will bring tears from many eyes, which can only have their spring in affectionately and gently touched hearts. I am perfectly certain that with this change, all the previous part of this tale will tell for twenty times as much as it can in its present condition.<sup>14</sup>

Jolly acquiesced to Dickens's request for alterations, conforming to the central tenet of his meliorative social philosophy: the 'raising up those that are down, and the general improvement of our social condition'.<sup>15</sup> 'A Wife's Story' was published in *Household Words* in September 1855 and though the story was far from 'cheery and pleasant', qualities that Dickens usually demanded in his effort to effect 'some solid good',<sup>16</sup> it was heart-rending, sentimental and morally instructive. In the published version both the frail daughter and the disillusioned and spurned husband survive illness and accident to be reunited with the repentant wife. Though grieving for the death of her son, she displays a renewed desire to 'reverence' her husband and so find 'rest on earth'.<sup>17</sup>

The success of sentimental narratives such as 'A Wife's Story' should be gauged, Dickens believed, in part by the intensity of the reader's response. In just the way that familial harmony is reinstated within the narrative through the shedding of tears and the conjoining of pity and forgiveness with guilt-ridden repentance (unsurprisingly gendered), so too does sentimentality work outside the confines of the text, strategically forging a specific bond of feeling between the reader and author. Yet as Dickens well knew, the relationship between reader and author was a fragile one. Notoriously fickle, the reading-public remained all-powerful in determining the popularity of a work and the success of the journal in which it was published. Dickens's advice to Jolly was disingenuous. He feared that in its original version 'A Wife's Story' would 'throw off numbers of readers' whose derogatory comments about the 'severity' of the wife's punishment would deter potential readers through the circulation of mere 'hearsay'. Fewer readers would not only defeat Jolly's didactic purpose, but his own as well. He wanted *Household Words* and in turn

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14 Dickens to Miss Emily Jolly, 17 July, 1855. *The Letters of Charles Dickens*, 7, p.677.

15 Dickens to Mrs Elizabeth Gaskell, 31 January, 1850. *The Letters of Charles Dickens*, 6, pp.21-22 (p.22).

16 Dickens to Rev. James White, 5 February, 1850. *The Letters of Charles Dickens*, 6, p.30.

17 [Jolly], *A Wife's Story*, I, p.173.



his own reputation to flourish in the fiercely contested world of periodical journalism and story-telling.

Dickens's correspondance with his contributors makes clear his conception of his readers: they were a potent revenue-generating market, which he desired not unnaturally to keep loyal to *Household Words*. There was no question, however, that Dickens also conceived of his audience as familial community. He presumed a shared cultural identity (constructed through the generation of a common stock of allusions and references which were framed by gentle guidance and instruction<sup>18</sup>) which was described by Thackeray as a communion, or 'something continual, confidential, something like personal affection'.<sup>19</sup> Through such a 'communion' the morally-upright, generous and compassionate dispositions of his domestic readership could be nurtured and 'better acquaintance and a kinder understanding' between individuals, groups and classes be achieved.<sup>20</sup>

Dickens's treatment of his readers can be seen to be similar to the ways in which lunatics in asylums were managed using moral treatment. To him, the reader (like the lunatic to the physician), was foremost a malleable subject whose emotions could be manipulated and so 'managed' through the rhetorical strategy of sentimentality and the forging of emotional bonds between readers and characters in fiction. Dickens always wanted to 'soften the reader' from his or her natural hardness. Such a gentle yet effective strategy was all the more necessary in the middle of the nineteenth century because of the way in which, to Dickens, the social processes of utilitarianism had induced an 'iron binding of the mind to grim realities'.<sup>21</sup> The deaths of the wife's family in Jolly's story reinforces this point. All it would have achieved was an ossifying of the reader's response which would in turn deny the reader both the instructive moral lesson that the story contained as well as the pleasure to be gained through its sentimentality and heart-rending emotionality.

In contrast to Jolly's story, Dickens believed that the depiction of Alfred Monkton's monomaniacal obsession in Collins's short story posed problems for its publication in *Household Words*. Importantly, it was not solely the nature of the insanity itself, monomania, that was problematic, but the fact that it was presented as hereditary. This alarmed Dickens in several ways, not least because the hereditary nature of Monkton's insanity held the potential to produce

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18 Taylor, *Secret Theatre*, p.25.

19 William Thackeray, 'A Box of Novels', *Fraser's Magazine*, 29 (February 1844), p.167. Quoted in Sue Lonoff, *Wilkie Collins and his Victorian Readers: A Study in the Rhetoric of Authorship* (New York: AMS Press, 1982), p.5.

20 [Charles Dickens], 'A Preliminary Word', p.177.

21 [Charles Dickens], 'A Preliminary Word', p.177.



identifications and associations in readers so intense (and alarming) that future readership for *Household Words* would be threatened. Perhaps more significantly, the hereditary nature of Monkton's monomania positioned it as literally untreatable and so culturally inaccessible to the sentimental ideals and demands of Dickens's reformist agenda. Hereditary monomania removed from the reader any chance, within the narrative itself, to achieve moral reconciliation. This is reinforced by that fact that though Alfred Monkton's monomania both initiates and underpins the narrative it remains, ironically, a 'hidden representation';<sup>22</sup> it is never named.

Diluting the full horror of Monkton's affliction through his own mediation of the events, the narrator seemingly protects the reader. Yet his own descent from practicality and rationality into Monkton's world of obsessions foregrounds not only the instability of the representational boundary separating madness from sanity but also 'strengthen[s] in the popular mind' (p.44) the story's simultaneous horror and attractiveness by forcing the reader to construct in his or her own mind the full implications of the affliction. It was the spectre of *dangerous* emotional excess, the arousal of *uncontrollable* feelings in his readers, that Dickens feared. He objected to Collins's depiction of monomania because it challenged, I argue, Dickens's overwhelming belief in the power of words to foster self-discipline, optimism, and strengthen belief in the power of social harmony. Alfred Monkton's inability to escape from his condition, and the hopeless prospects it engendered (importantly not only for himself but for those around him), undermined Dickens's belief in 'the progress of mankind'. Such a representation did not hold true to his promise that *Household Words* would contain nothing that would make its readers 'less thankful for the privilege of living in the summer-dawn of time'.

Dickens knew the power he held to control boundaries of emotional reception; as he wrote of periodical publications in general, whether 'quarterly, monthly, or daily [...] [they] teach the multitude of men what to think and what to say'.<sup>23</sup> With the materials that he authorised and accepted for publication, he was as secure as he could be in the knowledge that the effect produced would go some way to reinforce and reaffirm the purpose for which the story or article had been written.

Dickens was convinced that Collins's story would engender anxiety and criticism. Far from educating the reader about insanity or enabling the adoption of sentimental sympathy for the social consequences of such an affliction, Collins's portrayal of 'Mad' Monkton's hereditary monomania was to him neither instructive nor amusing. He instructed Wills to write to Collins and convey to him his primary objection to the story, that the subject of hereditary insanity

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22 Barbara Leckie, *Culture and Adultery: The Novel, the Newspaper and the Law, 1857-1914* (Philadelphia: University of Pennsylvania Press, 1999), p.16.

23 Quoted in Peter Ackroyd, *Dickens* (London: Sinclair-Stevenson, 1990), p.596.



potentially posed distress to 'those numerous families in which there is such a taint'. Dickens was careful not to alienate his young friend:

I think there are many things, both in the inventive and descriptive way, that he could do for us [...] And I particularly wish him to understand this, and to have every possible assurance conveyed to him that I think so, and that I should particularly like to have his aid.<sup>24</sup>

In a sense, 'Mad Monkton' conformed to Dickens's 'Conductorial Injunction' to keep *Household Words* 'IMAGINATIVE'<sup>25</sup> for it was a story in which Collins played on the reader's imaginative fancy and romantic impulses through the use of gothic motifs: dark and ancient haunted abodes, family curses and prophecies, mysterious, moldy documents, locked chests and leaden coffins. Many of his short stories playing with gothic horror attest to Collins's enjoyment of the fantastical genre. 'A Terribly Strange Bed', for example, was published in *Household Words* in April 1852.<sup>26</sup> Unlike the much darker 'Mad Monkton', 'A Terribly Strange Bed' was welcomed for its entertainment value, its ability to excite the reader and to enable him or her wholly to enter a thrilling imaginary world. It was the short story which confirmed to Dickens the literary potential of his protégé.

Embracing 'all the mysterious anomalies of sensibility, all the phenomena of the human understanding, all the consequences of the perversion of our natural sentiments, and all the errors of our passions',<sup>27</sup> monomania embodied emotions and sentiments which characterised both romance and gothic fictions. However, Collins's portrayal of the condition was indebted less to gothicism than to the medical topicality of the condition. Henry James believed that Mary Elizabeth Braddon followed in the footsteps of Wilkie Collins when she explored in her fiction 'those most mysterious of mysteries, the mysteries which are at our own front doors'.<sup>28</sup> There was no doubt, James believed, that such mysteries 'were infinitely the more terrible' than those in, for example, gothic fiction. By its very nature, the affliction of monomania and the social and psychological world which the monomaniac inhabited, was as familiar and terrifying as the

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24 Dickens to W.H. Wills, 8 February, 1853. *The Letters of Charles Dickens*, 7, p.23. In its place Collins wrote 'Gabriel's Marriage', a story set in Brittany about attempted murder and penitence. His original story was submitted to *Fraser's Magazine* where it was published between November and December 1855. It was republished in 1859 in *Queen of Hearts* as 'Brother Griffith's Story of Mad Monkton'.

25 Dickens to W. H. Wills, 17 November, 1853. *The Letters of Charles Dickens*, 7, p.200.

26 See also 'A Dead Hand' published in *Queen of Hearts* in 1859.

27 Esquirol, *Mental Maladies*, p.200.

28 Henry James, 'Mary Elizabeth Braddon', *Nation*, I (November 1865), pp.593-4 (p.593).



sensation novel's combination of the beautiful country house and the revelation of its occupants' 'terrible' secrets. It was just this combination, of the recognisable and the unrecognisable, the real and the unthinkable, that reinforced monomania's alluring literary potential to Collins and other writers.<sup>29</sup>

The world he witnessed around him was a preoccupation of Collins and one which he had investigated with his second novel, *Basil: A Story of Modern Life* (1852). In the novel's 'Letter of Dedication' addressed to Charles James Ward, Collins wrote that in the archives and legends of ancient history he had been unable to find another story that held the 'romance' so powerfully as *Antonina* (1850). Abandoning a story residing on a 'classical foundation' he described how the temptation overtook him to write a story of his own time which would instantly address the 'readiest sympathies' of the 'largest number of readers'. In an often-quoted passage, Collins set forth his vision of what the 'light of Reality' might achieve:

My idea was that the more of the Actual I could garner up as a text to speak from, the more certain I might feel of the genuineness and value of the Ideal which was sure to spring out of it. Fancy and Imagination, Grace and Beauty, all those qualities which are to the work of Art what scent and colour are to the flower, can only grow towards Heaven by taking root in earth. After all, is not the noblest poetry of prose fiction the poetry of every-day truth?<sup>30</sup>

Such a project, as Collins was aware, demanded the violation of 'some of the conventionalities of sentimental fiction'.<sup>31</sup> When he sought to 'excite the suspense or pity of the reader' it was not to the exotic, romantic, or uncanny that he turned, but rather to the 'most ordinary' street sounds and events such as riding on the tram. He believed that such additions to 'truth' reinforced the tragic power of *Basil* 'as no artifices of mere writing possibly could [...] let them be ever so cunningly introduced, by ever so crafty a hand'.<sup>32</sup>

Unlike *Antonina*, *Basil* was a project in which he sought to 'exhibit human life' and the 'truth of Nature'. To this end he defended its scenes of misery and crime. When they were 'turned to plainly and purely moral purpose'<sup>33</sup> they could be neither 'useless' nor 'immoral' in their effect on the reader. To readers who

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29 On Charlotte Brontë's employment of monomania, for example, see Shuttleworth, *Charlotte Brontë*, pp.49-56.

30 Wilkie Collins, *Basil: A Story of Modern Life* (Oxford: Oxford University Press, 1990), pp.xxxv-xxxvi.

31 Collins, *Basil*, p.xxxvi.

32 Collins, *Basil*, p.xxxvi.

33 Collins, *Basil*, p.xxxviii.



denied that it is the novelist's vocation to do more than merely amuse them; who shrink from all honest and serious reference [...] who see covert implications where nothing is implied, and improper allusions where nothing improper is alluded to [...] to those persons I should consider it loss of time, and worse, to offer any further explanation of my motives.<sup>34</sup>

An immediate question arises when Collins's comments are interpreted in the context of 'Mad Monkton'. Why did Collins chose to conflate the gothic genre, which one might consider to be an effective 'artifice' of writing, with the realistic 'truth' represented by the theory of monomania, especially when the 'fancy' and imaginative work demanded by the reader from gothicism was undercut by the threatening and very real nature of partial insanity? One explanation might lie in the increasing secularisation, from the early nineteenth century, of the gothic genre. Gothic fictions began to rely less and less on the evocation of horror through depravity and satanic forces and more on the increasing effectiveness of evil created through 'a defect of character, misapplied intelligence, a temporary lapse of will, a negative environment, or simply an inappropriate social or political context'.<sup>35</sup>

Coming to express a psychological rather than a spiritual state of horror, the 'artifice' of gothicism and the world of the supernatural in many ways complimented monomania in the exploration of the sinister terrors lurking in the mind of Alfred Monkton. They collectively serve in their precipitation of 'narrative dis-equilibrium'<sup>36</sup> to signify a departure from the rational world of reason and calculation. Yet the end to which Collins's conflates the two frames of reference produced both unexpected and unsettling effects and it was against these effects that Dickens desired to protect his readers.

### *iii. Fragile boundaries*

In *Victorian Renovations of the Novel* (1998), Suzanne Keen examines the significance in nineteenth-century novels of what she terms narrative annexes. Such annexes, entered through the crossing of a boundary, are border regions in which the narrative suddenly shifts from the expected to the unexpected, from the probable to the improbable, through a change of genre and an altered setting. The events contained within narrative annexes formatively change the direction that the

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34 Collins, *Basil*, pp.xxxvii-xxxix.

35 Marilyn Gaull, *English Romanticism: The Human Context* (New York and London: Norton, 1988), p.247.

36 Tammis Elise Thomas, 'Masquerade Liberties and Female Power in Le Fanu's *Carmilla*', in *The Haunted Mind: The Supernatural in Victorian Literature*, ed. by Elton E. Smith and Robert Haas (London: The Scarecrow Press, 1999), pp.39-65 (p.40).



plot takes. Keen argues that annexes were sites in which novelists could challenge conventional cultural and literary norms and extend the representational range and generic flexibility of narrative fiction.<sup>37</sup> Narrative annexes were used not only to break the norms and conventions of carefully-wrought fictional worlds but also to address cultural anxieties, particularly those preoccupations kept out of the novel by the limits of generic convention, the prohibitions of contemporary critics or by shared ideas about the boundaries of representation.<sup>38</sup>

Though Keen focuses on the relationship between narrative annexes and gender, sexuality and social class, the way in which they represent a response to the limits placed on fictional representation offers an important way of thinking about Collins's short story, and especially his construction of a complicated relationship between reason and irrationality. 'Mad Monkton' is informed by two genres, gothicism and sensationalised realism. Action takes place in two central settings (the world of Neapolitan society and the 'annex' represented by the distant states *outside* Naples). A boundary is literally crossed and the narrator's experiences at the dark and dangerous convent dramatically change the direction that the plot takes. Yet the importance here lies less in the way in which the story conforms in most senses to the features of Keen's 'narrative annex', and more in the way in which the story can be read as a radical critique of exactly those boundaries of reception and representation that Dickens so rigorously policed.

The alarm that Dickens was so anxious to prevent was exactly what Collins desired to effect in exposing the fragile boundary between sanity and insanity in his treatment of monomania. Most curious and most interesting, though, is the way in which Collins consciously subverts the opposition, maintained by Keen and other theorists of nineteenth-century fiction, between realism as representative of conventionality, order and control and alternative realities (reflected within narrative annexes) as representative of excess, disorder and the unconventional. The creative play of energies and tensions that Collins constructs between the genre of gothic and the realism attendant upon psychiatric theories of insanity are effective and powerful in keeping the reader in a state of nervous anticipation. Yet ironically, it is his *realistic* treatment of monomania, his subverting of psychological borderlines, through which Collins deliberately violates the boundaries of fictional representation and challenges the range and generic flexibility of narrative fiction as a whole. The 'alternative realm' of the 'narrative annex' is here manifested not, as one might expect, in gothic conventions but in partial insanity, in the mind; and its power is reinforced by the way in which the narrator, and the reader, slowly succumb to the obsessions Alfred Monkton's monomania generates.

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37 Suzanne Keen, *Victorian Renovations of the Novel: Narrative Annexes and the Boundaries of Representation* (Cambridge: Cambridge University Press, 1998), pp.1-4.

38 Keen, *Victorian Renovations*, p.9.



Both Dickens and Collins repeatedly made reference to the power that fictional narratives held to produce in their readers strong emotional effects such as anger, fear, disbelief, sorrow, pity and sympathy. Dickens believed wholeheartedly in the true power of sentimentality to effect change or promote reform. As his letters to King and Jolly suggest, Dickens was not hesitant about specifying the types of narrative welcomed by *Household Words*. As Ackroyd writes, both as a writer and an editor Dickens 'always knew precisely the demands and expectations of the public and at no stage in his career did he deliberately or knowingly thwart them'.<sup>39</sup> In contrast, Collins lost no time in discarding sentimentality (in his eyes an 'artifice of mere writing') in the aid of reality and truth. Collins offered in the Dedication in *Basil* a strident defence of his position as a writer of *truths* about the human condition whatever effect they might incur.

Though they each felt themselves and their particular brand of art and instruction to be answerable to the claims of their reading public, what is most revealing in regard to 'Mad Monkton' and Dickens's response to it are the opposing ways in which they each conceived of their 'responsibility' to the reading public. One might conjecture that Dickens found Collins's depiction of hereditary insanity simply irresponsible. Instead of using gothic conventions to represent, albeit imaginatively and creatively, disorder, it was the *reality* of the dangers posed by monomania that allowed readers the freedom to make associations between fiction and fact that were potentially dangerous, not only to themselves in terms of exacerbating anxiety or dangerously reinforcing ignorance, but to the pecuniary demands of the journals in which such storylines were published. While the maintenance of shared interpretive systems and the reinforcing of the boundaries of emotional reception were all important to Dickens, it was such boundaries and strictures that Collins so powerfully and deliberately disrupted with his treatment of monomania.

The fact that monomania was a form of partial insanity, existing on the borderline between madness and sanity, was important to Collins. From Dickens's expressions of concern, it is apparent that in his appropriation of monomania the conductor of *Household Words* felt that Collins was upsetting what he perceived of as a vital relationship between writer and reader. Apprehension about the violation of boundaries of emotional reception was not limited to fictional representations of monomania and the way the disease entity was employed to negotiate the problematic relationship between representation and emotionally-grounded identification. As chapters one and two have demonstrated, the use and abuse of monomania in medico-legal trials similarly elicited anxious concern in the newspaper press. The papers covering the trials of Nottidge and McNaughten were equally attuned to the power of words, images and associations to influence readers and consciously sought to challenge, manipulate or reinforce the public's attitude

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39 Ackroyd, *Dickens*, p.215. See also Fred Kaplan, *Sacred Tears: Sentimentality in Victorian Literature* (Princeton, N.J.: Princeton University Press, 1987), pp.39-40.



not only to Nottidge and McNaughten but also to the disease entity of monomania. As the following chapter will demonstrate, monomania was not alone in provoking public anxiety and in centring unwanted attention upon the profession of mental science. Addressing some of the concerns explored here, the focus of chapter four will shift from a consideration of the problems raised by the introduction of monomania to established nosologies of mental disorder to a consideration of the problems attendant on moral insanity. Like monomania, moral insanity was a 'new' disease. It was formative in the renovation of accepted psychiatric nosologies but its legitimacy was hotly contested. Far from entrenching the status and authority of the psychological physician in the care and treatment of the lunatic, it was a condition which was perceived, like monomania, to protect the guilty from due retribution and incarcerate in lunatic asylums innocent though eccentric individuals.



## Chapter Four

### The Gordian Knot: Entanglements in nineteenth-century lunacy reform

A writer in *The Times* in 1858 described the new county and borough asylums constructed under the 1845 Act as sites in which ‘brutality and violence are unknown’ and in which ‘everything is done to cheer and comfort the unfortunate inmates [...] by every little stratagem which the most thoughtful humanity can devise’.<sup>1</sup> And a visitor to the Sussex County Lunatic Asylum (opened in July 1859) observed that the replacement of loopholes and gratings with glazed windows was an innovation worthy of particular praise. While the country views the asylum’s windows commanded were aesthetically-pleasing, of more significance was the way that windows had been constructed so that ‘the safety of the inmate is secured without the idea of confinement being conveyed’.<sup>2</sup> Though reserving criticism for the overcrowding that he witnessed in Bethlem, Colney Hatch and Hanwell asylums, Andrew Wynter’s comments on the ameliorative transformation that had taken place in the site of the asylum and in the care and treatment of the lunatic were impressive:

Not only have the old methods of treatment been abandoned, but many changes have been made to render the houses for the insane less repulsive to the eye. Thousands of pounds have been spent in replacing the dungeon-like apertures [...] with light-framed windows, undarkened by dismal bars [...] with the improved appearance of the building, the harsh title of keeper has given place to that of attendant, and the madhouse has become the asylum.<sup>3</sup>

Yet despite the abolition of whips, chains, and manacles and the replacement of ‘dungeon-like apertures’ with glazed windows, the popular perception of the lunatic asylum as a site of brutality, secrecy and danger was difficult to dispel. Similarly, though Wynter applauded the pivotal role that the medical man had played in replacing mechanical and physical restraint with a humane system of moral management by comparing him to a ‘ministering angel carrying out the all powerful law of love’,<sup>4</sup> the psychological physician remained an object of deep apprehension. To the dismay of the lunatic asylums’ advocates, in the summer of 1858 these perceptions were

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1 *The Times*, 28 July, 1858, p.9.

2 ‘Sussex Lunatic Asylum’, *JPMMP*, 12 (1859), p.463.

3 Andrew Wynter, *Curiosities of Civilization* (London: Robert Hardwicke, 1861), p.151. First published as ‘Lunatic Asylums’ in the *Quarterly Review*, 101 (April 1857), pp.353-93.

4 Wynter, *Curiosities*, pp.157-158. When he visited Hanwell asylum in 1848, the Rev. Charles Davies was pleasantly surprised by its ‘bright wards’, ‘buxom attendants’ and ‘frequent jinks’, all factors which contributed to the physical and moral amelioration of the ‘sad condition’ of lunatics. See Charles Maurice Davies, *Mystic London; or, Phases of Occult Life in the British Metropolis* (New York: Lovell, Adam, Wesson, [1875]), pp.40-41.



dramatically validated when newspapers reported several cases of wrongful confinement in lunatic asylums. Fostered by newspaper editorials condemning the laxity of the lunacy laws and questioning the authority which had been accorded to the physician, widespread panic ensued. In order to allay the public's anxiety and address the concerns of an increasingly vocal lay-lunacy law reform movement, in February 1859 a Select Committee of the House of Commons was appointed to examine the Operation of the Acts and Regulations for the Care and Treatment of Lunatics and their Property.

Chaired by the Home Secretary, Spencer Walpole, the committee examined a range of witnesses over the course of three parliamentary sessions. They were questioned on the medical treatment of lunatics (chancery, private and pauper), the physical environment of asylums (private, county and borough asylums and single houses and workhouses), the conduct and qualifications of attendants, visitation guidelines, certification procedures and legal safeguards. In their final Report published in July 1860, Walpole stated that though their inquiry had been comprehensive, they had found no evidence to substantiate claims that wrongful confinement in private lunatic asylums was widespread.<sup>5</sup>

The 1859-60 Select Committee inquiry has not been the subject of sustained critical attention.<sup>6</sup> An explanation for this lies perhaps in the committee's conclusions that the anxieties of the public about the prospect of wrongful incarceration in lunatic asylums were unfounded. Yet in exploring the construction, dissemination and response to such fears, the debates engendered by the inquiry take on a significance hitherto overlooked. This chapter will examine three specific concerns debated in the hearings and discussed at length in newspapers and journals: the ease with which eccentricity could be confused with moral insanity, the threat to the liberty of the subject posed by medical intervention, and the role played by 'public opinion' and 'popular notions' of the lunatic, the asylum, and the psychological physician. It will become apparent that these issues played a formative role in exacerbating the popular perception of medical impropriety and entrenching the 'idea' of the asylum as a site of illegal detention. The anxieties and debates about wrongful confinement in 1858-59-60 were in many respects similar to those that attended the Nottidge trial of 1849. There was, however, one difference. Amidst the flurry of articles, essays

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<sup>5</sup> *Report from the Select Committee of the House of Commons on Lunatics; Together with the Proceedings of the Committee, Minutes of Evidence and Appendix*; PP 1860 (495) XXII, 349, p.viii. The final Report, published in July, coincided with the serialization of Wilkie Collins's *The Woman in White*, no doubt to his gratification.

<sup>6</sup> Parry-Jones, for example, ignores the importance of the debates about liberty and scientific authority that the inquiry set in motion. Though Scull notes the concern with pauper lunatics, his treatment of the inquiry is equally insufficient. See Parry-Jones, *The Trade in Lunacy*, p.26, Scull, *The Most Solitary of Afflictions*, p.307, and Scull, *Museums of Madness*, p.212.



and editorials on the inquiry in the medical and popular press, J. S. Mill published *On Liberty* (1859).

This chapter will demonstrate the extent to which Mill's doctrine of liberty informed the controversy over the existence of wrongful confinement by examining both testimony from the select committee hearings and a range of texts commenting on the hearings and discussing moral insanity and eccentricity. Seeking to make sense of the fragile relationship between authority, individuality and society, Mill embraced a constructive paradigm: the 'only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant [...] Over himself, over his own body and mind, the individual is sovereign'.<sup>7</sup> Advocating the individual's right to liberty of thought, feeling and action, and expressing a mistrust of authority, the principles Mill espoused in *On Liberty* bolstered the arguments of those seeking to condemn the 'overweening' and coercive threat that physicians posed to the rich diversity of individualism. In focusing attention on the question of who held the legitimate right to *speak* authoritatively on behalf of the individual, and how such a right should be defined, his treatise formatively contributed to concerns about the profession of mental science in the middle of the nineteenth century.

Yet at the same time, Mill's denunciation of 'public opinion' and his criticism of the credulity of the public was couched in a language strikingly similar to the medical condemnation of the role public opinion played in exacerbating suspicion of the lunatic asylum and fear of its arbiters. Because no specific mention is made of lunatics in *On Liberty*, and because Mill asserted that the liberty of children, barbarians and those incapable of looking after themselves *should* be subject to interference, it remains unclear whether he believed that the psychological physicians posed a threat to the liberties of the lunatic.<sup>8</sup> While it is true that Mill never wholly denounces or sanctions medical interference (a striking omission in light of his contribution to medico-legal debates about wrongful confinement in the summer of 1858), of greater significance is the way in which his conspicuous ambivalence about medical interference acted to complicate rather than

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7 John Stuart Mill, *On Liberty*, in *The Collected Works of John Stuart Mill*, ed. by J.M. Robson, 33 vols (Buffalo and Toronto: University of Toronto Press, 1977), 18, pp.223-224. First published by John Parker in 1859. Further page references are contained within the text. Mill's denunciation of the social conformism displayed by judges, jurors and witnesses in civil lunacy inquisitions was used by Thomas Szasz to declare Mill one of the earliest critics of psychiatric paternalism and psychiatry as a dangerous form of social control. See Michael J. Clark, 'Law, Liberty and Psychiatry in Victorian Britain: an Historical Survey and Commentary, c.1840-c.1890', in *Proceedings of the 1st European Congress on the History of Psychiatry and Mental Health Care*, ed. by Leonie de Goei and Joost Vijselaar (Rotterdam: Erasmus Publishing, 1993), pp.187-193 (p.187).

8 Clark attributes Mill's 'puzzling omissions and equivocations' on the issue of liberty and involuntary hospitalization to a 'conflict in his own mind' between a mistrust of physicians' abuse of individual liberty and a tacit recognition that not everyone was capable of looking after themselves and enjoying the benefits of individual liberty. Clark, 'Law, liberty and psychiatry', pp.191-192.



clarify the legislative boundaries between medical intervention and the civil liberties of individuals as they were debated in the hearings and in the press. The way in which Mill's equivocal position informed the wider debate, especially in regard to eccentricity and 'quasi-insanity', is an issue that has not been sufficiently interrogated. Yet in the context of the courtroom, where it lay with juries to ultimately determine the contested boundary between partial forms of insanity and eccentricity and thus consign an alleged lunatic to the asylum or secure his or her liberty, this is an important factor which was to remain of concern throughout the nineteenth century.

There are four sections in this chapter. The first section details the cases of wrongful confinement sensationally reported in the press in the summer of 1858. The concerns raised by the cases, all of which centred attention on partial insanity, led to the select committee investigation of 1859-60. The second section turns to the problematic relationship between moral insanity and eccentricity and explores what constituted a preoccupation of all concerned: individuals suffering from 'quasi' forms of insanity. This section will focus on the acrimonious medico-legal debates surrounding moral insanity and will trace the arguments employed to denigrate both the disease and its defenders. The third section will examine the medical response to public condemnation and will focus on how public opinion itself became an object of controversy. In seeking to deflect unwanted attention from their own profession, physicians were quick to condemn the role played by journals and newspapers in heightening anxiety about wrongful confinement. The last section turns to Mill's *On Liberty* and examines the importance he accords to eccentricity. By situating Mill's concerns about liberty and authority in the framework of contemporaneous debates about partial insanity, this chapter will argue that quasi or partial forms of insanity formatively complicated and undermined the legal, medical and social borderlines separating sanity from insanity. Furthermore, it will seek to identify the ways that debates about moral insanity, like monomania, entrenched a concern not only with the threats posed by the physician to the alleged lunatic, but with representations and definitions of authority, liberty, protection and safety.

#### *i. 1858*

Physicians believed that individuals who exhibited 'no positive hallucination of any kind' were paradoxically far more dangerous to society than maniacally deranged lunatics because of the ease with which their 'exalted state of the passions and sentiments' and their inability to fulfil their 'duties towards themselves or society' were interpreted by families and friends as evidence of a harmless eccentricity rather than of insanity. For this reason, they were not automatically the object of medical scrutiny. Yet to physicians it was precisely these individuals who required treatment in lunatic asylums. As a writer for the *British Medical Journal* put it in 1859:

We believe that hundreds of insane persons of the most mischievous character, most mischievous, because their unsoundness of mind runs on sound tracks, and is therefore less likely to be guarded against - will, in consequence of the known tendencies of juries in



such cases to “cast the mad-doctors,” be allowed to run their lamentable course, and to spread misery and anguish around them.<sup>9</sup>

It was this scenario which led to the confinement of Rosina Bulwer-Lytton, the wife of the Colonial Secretary and novelist in Inverness Lodge, a private asylum in Brentford run by John Conolly’s brother-in-law, Robert Gardiner-Hill. Since 1836 Rosina had been separated from her husband. While he was amassing both wealth and prestige, she was forced to live on what she considered a meagre monthly allowance of £400. In retaliation she regularly published novels in which Bulwer-Lytton was the ‘instantly recognizable villain’.<sup>10</sup> By the late 1850s, she was convinced that her husband had employed men to observe her actions and so discover a reason to challenge the payment of her allowance. In private and in public, she took all opportunities to embarrass him, verbally berating him and sending him letters adorned with obscenities.

In the summer of 1858 a general election was called. To secure his nomination as a Tory member, Bulwer-Lytton was to attend a public meeting in Hertford. Seeing in the meeting an ideal opportunity to condemn her husband’s conduct, she arrived with posters and made a long speech on the hustings. Bulwer-Lytton saw in her complaints and accusations, and in the ‘misery and anguish’ she was spreading, the seeds of mental disorder. He called in six physicians (including John Conolly) to examine her. Diagnosed as insane, she was removed against her will on 22 June to Inverness Lodge. Released on grounds of ill health on 17 July, she took every opportunity to affirm her sanity and accuse her husband and the doctors of unparalleled vindictiveness. The description of her three-week stay at Inverness Lodge in her autobiography, *A Blighted Life* (composed in 1866 but not published until 1880), was filled with indignation and contempt. She compared her husband to ‘CÆSAR BORGIA’,<sup>11</sup> condemned Inverness Lodge as a ‘living tomb’,<sup>12</sup> and described Conolly as a ‘vile old’ man who would ‘sell his own mother [...] for money’.<sup>13</sup> Considering the political stature of her husband, it was unsurprising that the ‘ignominious family war’ attracted lurid publicity. On one point, a writer in *The Times* felt that

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9 *British Medical Journal*, (1859), p.568. Hereafter abbreviated as *BMJ*.

10 Richard D. Altick, *The Presence of the Present - Topics of the Day in the Victorian Novel* (Columbus: Ohio State University Press, 1991), p.546.

11 Rosina Lytton, *A Blighted Life* (London: The London Publishing Office, 1880), p.45.

12 Lytton, *Blighted Life*, p.42.

13 Lytton, *Blighted Life*, p.39.



the public were in agreement: 'The power at present exercised under the lunacy law is dangerous to social liberty'.<sup>14</sup>

Proving no less attractive to critics of private asylums, the second exposé of illegal confinement reported in 1858 was that of a Mrs Mary Jane Turner, the wife of Charles Turner, the Official Assignee in the Liverpool Court of Bankruptcy. Turner believed that her husband had been unfaithful. In a manner similar to Rosina Bulwer-Lytton's verbal denunciations of her husband, she had taken every opportunity to embarrass him, charging him with 'undue familiarity with other women'.<sup>15</sup> As *The Times* sympathetically acknowledged, when she was 'kept apart from her husband', she seemed to 'have conducted herself without any marked impropriety'. Yet on the advice of physicians, who observed a 'want of collectedness',<sup>16</sup> in her actions, she was committed to Acomb House, a private lunatic asylum near York run by Dr J. W. Metcalfe. Subjected to brutal treatment by her 'keepers' and prevented from communicating with the 'outer world', Turner made several unsuccessful attempts to escape. It was only after the intervention of her solicitor and the subsequent initiation of an inquisition that she was found to be of sound mind by the jury and released from the asylum. The case was notoriously known as the Acomb House scandal. While exhibiting relief at the successful outcome of the case, *The Times* remained cautious:

We cannot but entertain a fearful suspicion that the administration of Private Lunatic Asylums is carelessly conducted, and that many a sad tragedy which is never spoken of in the outer world occurs in these dismal abodes.<sup>17</sup>

The third scandal of 1858, again involving John Conolly, was that of a Mr. Lawrence Ruck. After drunkenly threatening his wife, Conolly signed a certificate committing Ruck to Moorcroft House, the institution where Nottidge had been wrongfully incarcerated in 1846. Soon sobering up, Ruck secured an inquisition in lunacy after which, like that of Turner, a jury found him sane. In the trial for damages Ruck instituted against Conolly upon his release from the private asylum, heard in the Court of the Queen's Bench in late June, 1859, the proprietor of the asylum, Dr Stillwell, admitted that he had fabricated the asylum casebook. This was not the worst of the misdemeanours sensationally reported in the press. When Conolly examined Ruck it was in

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<sup>14</sup> *The Times*, 15 July, 1858, p.4.

<sup>15</sup> *The Times*, 28 July, 1858, p.9.

<sup>16</sup> 'Commission of Lunacy on Mrs. Turner', *JMS*, 5 (1858-59), p.118.

<sup>17</sup> *The Times*, 28 July, 1858, p.9. As a witness in the Select Committee inquiry, Lord Shaftesbury pointed out that Turner had never filed an official complaint to the visiting commissioners in lunacy. He believed that the press had exacerbated the proportions of the case. See *Report of the Select Committee of the House of Commons on Lunatics; Together with the Proceedings of the Committee, Minutes of Evidence and Appendix*; PP 1859 1st sess. (204) III, 75, p.17.



the presence of a second physician, Dr Richard Barnett. This was illegal. Visiting physician to Moorcroft House since 1853, a position which gave him a salary and a percentage of the patient's fees, Conolly had also received a commission from Ruck's committal. Both charges were serious and despite his attempt to defend himself from the damning admissions, judgment was given in favour of Ruck. Conolly was forced to pay £500 damages.<sup>18</sup>

The cases of Rosina Bulwer-Lytton, Mary Jane Turner and Lawrence Ruck were given extensive coverage in the press. Almost daily, in leaders and letters to the editor, the abuse of physicians' privileged authority (such as Stillwell's falsifying of the asylum's records and the 'disgraceful conduct' of Metcalfe), the brutality of the asylum keepers, the ineffectual safeguard represented by the visits conducted by Commissioners in Lunacy, and the laxity of lunacy laws were subjected to minute analysis and debate.<sup>19</sup> Despite strenuous denials of impropriety and a rigorous defence of their actions and intentions, the proprietors of private lunatic asylums like Gardiner-Hill, Metcalfe, and Stillwell, and physicians (like Conolly) who signed detainment certificates, were fighting a losing battle against public opinion and the widespread belief that the reformed system of asylum care did not prevent the illegal detainment in private lunatic asylums of sane but eccentric or socially-inept individuals. Journalists and 'lay-lunacy law reformers' remained convinced that physicians held too great a power to 'put any man who is a little original into an asylum'.<sup>20</sup>

## *ii. moral insanity and eccentricity*

Though the Select Committee hearings of 1859-60 were concerned with a multitude of issues regarding the care and treatment of the lunatic, lay-lunacy law reformers, newspapers and medical journals commenting on the hearings were clearly preoccupied by the particular problems presented by the 'vast body' of men and women who suffered from a state of 'quasi-insanity'. Without medical intervention, physicians argued, such individuals were liable to contract 'foolish and improvident marriages', 'recklessly [squander] their property' and be singled out for pecuniary gain by 'designing domestics and unprincipled knaves'.<sup>21</sup> While the medical community were keen to argue that this scenario was far more ruinous and embarrassing than the diagnosis of insanity (especially to families who already suffered from 'social disadvantages'), civil libertarians argued in

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18 *Masters of Bedlam*, p.76. See also *The Times*, 24 August, 1858. Conolly explained in his testimony before the Select Committee that he did not know that Barnett was a medical man.

19 See, for example, *The Times*, 4, 19, 20, 21, 23, August, 1858.

20 'The Parliamentary Inquiry into Popular Notions concerning the Treatment of Lunatics', *JPMMP*, 13 (1860), p.50.

21 *JMS*, 5 (1858-59), p.66. These images hold a striking resemblance to those of Conolly in his defense of the incarceration of Nottidge.



contrast that such individuals were merely harmless eccentrics whose civil liberties were being undermined by the diagnosis of quasi-insanity.

Sensing the depth of public outrage and anxiety at the cases of wrongful confinement sensationally reported in the summer of 1858 (especially Lytton's case), Walpole instituted the inquiry both to secure the 'proper protection' of the lunatic and to secure the 'interests of the public' by giving voice to 'popular opinions'.<sup>22</sup> In equating the 'public' with 'ignorant' lay-lunacy law reformers, and in equating 'popular opinions' with a concern for the alleged lunatic's civil liberties, physicians and asylum proprietors were angered by this second motive. They believed that the 'perverse, single-eyed attention to the civil rights of lunatics, as contradistinguished from, and to the neglect of their medical rights detracted valuable time and attention from what should have been the sole concern of the inquiry: the medical treatment of the lunatic.'<sup>23</sup> Though Walpole recognised that in order to secure the patient's right to protective treatment it was first necessary to assure the public of the medical authority of physicians and to convince them that the lunatic asylum was the most appropriate site of care, physicians felt that in exacerbating fear of the asylum and suspicion of the physician, lunacy-law reformers were acting irresponsibly.

The medical community's concern at the effectiveness with which lay-reformers were rousing public opinion against the asylum and its physicians was compounded by the increasingly wide-spread claim that moral treatment could be performed 'equally by an unprofessional as by a professional man'.<sup>24</sup> Because physicians were therefore seen by some as 'ornamental [rather] than essential members of an asylum staff',<sup>25</sup> it was not surprising that 'the importance of a medical attendant is little appreciated, and that the value of medical treatment is little heeded'.<sup>26</sup> Another factor which heightened disillusionment with the asylum was the perception that an increasing number of lunatics were not responding to the curative measures of moral treatment. County asylums in particular were increasingly understood as being merely 'reservoirs for the reception of our surplus lunacy!'.<sup>27</sup> Though Andrew Scull has argued that there was in fact no overall increase

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22 'The New Lunacy Bills', *Lancet*, (1859) i, p.420.

23 'Proposed Legislation in Lunacy', *JPMMP*, 12 (1859), p.412. Many physicians believed that the Inquiry was, in reality, 'not required'. See 'The Parliamentary Inquiry and Popular Notions concerning the Treatment of Lunatics', *JPMMP*, 13 (1860), p.46.

24 John T. Arlidge, *On the State of Lunacy and the Legal Provision for the Insane* (London: John Churchill, 1859), p.103. Arlidge had been a student of Conolly's and was a former superintendant of St. Luke's Hospital for Lunatics. Scull, *The Most Solitary of Afflictions*, p.318.

25 Arlidge, p.104.

26 Arlidge, p.104.

27 *JPMMP*, 13 (1860), p.450.



in the pauper insane population, contemporary observers believed that the asylum population was increasing. According to the Select Committee Report of 1860, the explanation lay in the expansion and improvement of public asylums, the inclusion of previously unsupervised chronic cases, an increase in longevity, and a decrease in annual mortality rates.<sup>28</sup> Yet an equally plausible explanation for what was perceived to be an increase in asylum populations can be found not only in the increasing desire to ‘nip lunacy in the bud’ through early commitment to asylums (which it was hoped would protect both the patient and society from the possible dire consequences of their illness<sup>29</sup>), but in the nosological expansion of categories of lunacy to include quasi-forms of insanity.

As John Charles Bucknill put it, since the mid-1840s ‘medical science has discovered whole realms of lunacy, and the nicer touch of a finikin civilization has shrunk from the contact of imperfect fellow-creatures, and thus the manifold receptacles of lunacy are filled to overflow with a population more nearly resembling that which is still at large’.<sup>30</sup> While insanity itself was not a focus of concern in the Select Committee hearings, the introduction to medico-legal circles of moral insanity played a significant though unspoken role in the debates that the inquiry initiated. Particular concern was expressed at the way in which the eccentricities of Lytton and Turner had been interpreted as insanity. To civil libertarians, the expansion of psychiatric nosologies and the consequent ease with which anti-social behaviors, beliefs and actions could be interpreted as signs of insanity was a dangerous development threatening the liberty of the subject. Held directly accountable for violating the alleged lunatic’s right to civil liberty, the profession of mental science was subject to intense scrutiny. The reactions to public mistrust of their authority revealed deep fissures within the medical establishment. Not all psychological physicians accepted moral insanity as a new disease entity. Contesting its medico-legal efficacy, the debates *within* the profession about quasi-forms of the insanity served to further entrench concern with the profession of mental science.

Born into a family of physicians and a into a rationalist world of psychiatric medicine which viewed insanity as incurable, Philippe Pinel (1745-1826) emerged as a pioneer of therapeutic techniques. Widely popularised as the physician who dared to strike off the fetters that restrained patients in the Bicêtre and the Salpêtrière, sensationally depicted in Tony Robert-Fleury’s painting of 1887, ‘Pinel Freeing the Insane’, Pinel’s belief in the recuperative power of moral management, a treatment regime directed principally at the mind rather than the body, introduced the ground-breaking idea that rather than being sinful, criminal or depraved, the lunatic was sick

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28 PP 1860 (495) XXII, 349, p.iii. On slipshod and faulty measures for gathering statistics, see Scull, *Museums of Madness*, p.226.

29 McCandless, “Build! Build!”, p.554.

30 Bucknill, *Care of the Insane*, p.4.



and so might be cured.<sup>31</sup> Pinel gained much of his early knowledge of insanity in the years leading up to the French Revolution while he worked at one of the most famous private sanatoria in Paris, the *Maison de Santé*. As Jan Goldstein has argued, the imminent collapse of the *Ancien Régime* led to the demand for an overhaul of the French medical establishment. The Paris Faculty of Medicine were forced to give up the power of decision-making to younger physicians (many of whom were friends of Pinel) who were often affiliated with the Royal Society of Medicine. As a result of this development, in 1793 Pinel was offered the position of physician-in-chief at the newly-medicalised section for the insane at the Bicêtre. Two years later he also accepted a position at the Salpêtrière.

Gradually, Pinel's philosophical interests heightened his fascination with the non-intellectual motivations of human behavior (the affective and passional aberrations in mental disorder) and he was thus part of a 'broader movement in which art, psychology, philosophy and medicine came increasingly to express the non-rational aspects of human activity'.<sup>32</sup> However, acclaim at the success of his treatment was marred by suspicion about the methods he employed to diagnose insanity. Central to the criticisms directed at Pinel, especially by the Paris Faculty of Medicine, was his use of observation to detect the nature and trace the development of lunacy. To his critics, Pinel's advocacy of observation as a scientific tool affiliated him with a group derided by elitist pre-revolutionary medical bodies: charlatans and lay *concièrges* of lunatic asylums. Yet Pinel was explicit about the knowledge to be gained from his unaccredited counterparts. In contrast to many established physicians (who seldom had so varied a knowledge and so treated all patients with the same techniques), their sound judgment based on daily observation provided them with an unsurpassed breadth of knowledge.<sup>33</sup>

Observation was to play a formative role in Pinel's recognition that insanity was not solely grounded in the derangement of reason and thus was not, as universally believed, an intellectual disorder. Though he found himself 'not a little surprized [sic] to find many maniacs who at no period gave evidence of any lesion of the understanding',<sup>34</sup> he was conclusive about the

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31 Goldstein, *Console*, p.65. On Pinel see Casmir Pinel, 'Pinel: A Biographical Study', *JPMMP*, 13 (1860), pp.184-205. See also Sir Aubrey Lewis, *The State of Psychiatry: Essays and Addresses* (New York: Science House, Inc., 1967), pp.9-17, and Dora B. Weiner, 'Le geste de Pinel': The History of a Psychiatric Myth', in *Discovering the History of Psychiatry*, ed. by Mark S. Micale and Roy Porter (New York: Oxford University Press, 1994), pp.232-247.

32 Eric T. Carlson and Norman Dain, 'The Meaning of Moral Insanity', *Bulletin of the History of Medicine*, 36 (1962), pp.130-140 (p.132).

33 Goldstein, *Console*, p.74.

34 Philippe Pinel, *A Treatise on Insanity in which are contained the Principles of a New and More Practical Nosology of Maniacal Disorders*, trans. by D. D. Davis (Sheffield: W. Todd, 1806), p.150. First published in 1801 (with the article as the first chapter) as *Traité médico-philosophie sur*



existence of a ‘nervous malady’ in which there existed no alteration in active faculties or in the understanding but rather a mania without delirium which was ‘excited by intense or vehement passions; by exalted and furious enthusiasm, or by whatever strong emotions that may originate in fanaticism or chimerical delusions’ (p.156). Because of its striking singularity, the condition he titled *manie sans délire* constituted for Pinel a category of insanity which deserved to be interpreted as clinically distinct from melancholia, dementia, idiotism, and mania *with* delirium.

Like his student Esquirol, Pinel felt that there existed, he argued, ‘a want of proper terms, to express certain facts, and to describe, with a suitable degree of minuteness, the various lesions of the intellectual and active faculties’ (p.135). He was dissatisfied with the predominance of ‘general expressions [like ‘mental derangement’] [...] however suitable and comprehensive’ because in most instances, ‘they are far from being the result of accurate observations and experiences.’ (p.134) He believed that the established classificatory system was both limiting and inaccurate and had thus become wholly inadequate to cope with the recognition of new forms of insanity. As evidenced by the observations of Pinel, the rational, intellectualist understanding of mental illness had become so far removed from the recognition of emotional and behavioral impairment that it had become, relatively speaking, extraneous. Pinel’s belief that mental derangement could exist without any evidence of a lesion of the understanding was as radical as his introduction of a therapeutic regime of moral management and contributed to a fundamentally new way of thinking about mental illness and its appropriate treatment.<sup>35</sup>

When Pinel’s *manie sans délire* was introduced to England by the English ethnologist and psychiatrist, James Cowles Prichard (1786-1848) in his *Treatise on Insanity* (1835), the condition which he termed ‘moral insanity’ similarly produced ‘a profound sensation in the legal and psychological world’.<sup>36</sup> Just as Pinel’s recognition of a form of insanity grounded in emotional rather than intellectual aberrations was met with scepticism by the French psychiatric profession, so too was moral insanity received by English physicians with suspicion. As with *manie sans délire* in France, moral insanity initiated a series of debates which developed into a battle of authority between the advocates of emotionally-grounded mental aberration (grounded on observation) and the defenders of insanity as a theoretically-grounded intellectual impairment.

Judging from his laudatory dedication to Esquirol in his 1835 *Treatise*, Prichard admired the theoretical minutiae of his French contemporary’s concept of monomania. Prichard was particularly indebted to Esquirol’s division of monomania into three sub-divisions: intellectual

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*l’aliénation mentale, ou la manie*, with an expanded edition appearing in 1809. Further page references are contained within the text.

35 George Frederick Drinka, *The Birth of Neurosis - Myth, Malady, and the Victorians* (New York: Simon and Schuster, 1984), p.41.

36 D. Hack Tuke, *Prichard and Symonds*, p.1.



insanity (based on illusions, hallucinations and delusions), affective insanity or *manie raisonnée* (in which the affections were perverted and the character of the individual altered), and instinctive insanity (a lesion of the will marked by destructive impulses which drew a patient away from his or her accustomed course of actions to the commission of acts which his or her conscience rebuked). Simultaneously defined against Esquirol's 'intellectual' monomania and allied to Esquirol's second and third sub-divisions of monomania, 'affective' and 'instinctive' insanity, moral insanity was a 'morbid perversion of the feelings, affections, and active powers, without any illusion or erroneous conviction impressed on the understanding'.<sup>37</sup> Displayed solely in the state of one's feelings, affections, temper, and in the habits and conduct of the individual, moral insanity was a mental disorder in which the understanding, or reason, remained intact and the 'intellectual faculties [...] sustained little or no damage' (p.4).

Unlike mania (in which the understanding was indisputably deranged), and unlike monomania (in which a delusive or erroneous belief was impressed upon the mind leading to a false conviction on a sole topic), moral insanity was an instinctive disorder marked by the depravity or perversion of the 'moral and active principles of the mind' and by the impairment of 'the power of self-government'. Many cases of moral insanity, Prichard argued, featured an 'eccentricity of conduct, singular and absurd habits, [and] a propensity to perform the common actions of life in a different way from that usually practised' (p.23). Though often incapable of conducting himself 'with decency and propriety in the business of life' (p.4), the morally insane individual often displayed ingenuity in justifying their 'singular, wayward, and eccentric' actions' (p.12). Yet despite their cunning, it remained possible for skilled physicians to detect the presence of moral insanity by observing the precise nature of their 'decay of social affections', their 'unusual expression of strong feelings' and their 'thoughtless and extravagant conduct' (p.19).

Like monomania, which could degenerate into its theoretical opposite, mania, it was difficult to define moral insanity because a considerable proportion of morally insane individuals had tendencies not only towards gloom and sorrow but also to 'an opposite condition of prenatural excitement [...] [in which the patient is] always in high spirits, active and boisterous, full of projects and enterprises' (p.19). While potentially symptomatic of moral insanity, such attributes could equally indicate merely an individualistic and eccentric personality. Because 'the varieties of moral insanity are perhaps as numerous as the modifications of feeling or passion in the human mind' (p.17), the dangers of mistaking socially-deviant and socially-inept behaviors, including criminality and eccentricity, was more than apparent to Prichard. Though he acknowledged in his tract on insanity and jurisprudence published in 1842 that it was often difficult to 'pronounce, with certainty, as to the presence or absence of moral insanity, or to determine whether the appearances which are supposed to indicate its existence do proceed from natural peculiarity or

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<sup>37</sup> Prichard, *A Treatise on Insanity*, p.12. Further page references are contained within the text.



eccentricity of character',<sup>38</sup> he maintained that while it was impossible to determine the line which marks a transition from predisposition to disease (and argued that a degree of predisposition *did* constitute madness), neither tendency (be it gloomy or excited) destroyed the understanding. While Prichard acknowledged that both tendencies were natural to many, in those instances which form cases of moral insanity, it was 'beyond the limit that belongs to a natural variety of character' (p.19).

The difficulty of accurately determining the existence of moral insanity positioned it almost immediately as the object of acrimonious medico-legal debate. In the Croonian Lecture of 1853, delivered by Thomas Mayo before the Royal College of Physicians, foremost among the eminent physician's objections to moral insanity was the manner in which it was increasingly used in the courtroom as a 'refuge' plea to abjure criminal culpability on the grounds of irresponsibility. Objecting in particular to the 'vagueness' with which it was legally understood and applied, he argued that the 'loosening of the definite sense of words' which the term moral insanity suggested was damaging because of the way that it had acted to discredit the value of medical intervention. Because of the 'formidable' moral and judicial consequences its employment had led to, he argued that he was conducting 'no mere war of words' on moral insanity.<sup>39</sup> Observing the manner in which the new disease had acted 'dangerously in our courts of justice, paralyzing her arm, and securing impunity to those who have indulged their "homicidal orgasm," as it is the fashion to call a propensity to murder',<sup>40</sup> a writer in *Fraser's Magazine* concurred with Mayo's objections. Promoted by the 'Moral Insanitists' or 'kindred followers' of Prichard, moral insanity was a 'notion subversive of the safety of society'.<sup>41</sup> Though for different reasons, Mayo was not alone in objecting to the inclusion of quasi-forms of insanity into established medical nosologies.

The journalist and one-time Baptist minister Thomas Mulock was one of many who perceived in the nosological expansion of categories of lunacy an increased potential for wrongful confinement in lunatic asylums.<sup>42</sup> In *British Asylums: Public and Private* (1858) Mulock argued that it was too easy under the existing lunacy legislation to diagnose sane but eccentric individuals

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38 James Cowles Prichard, *On the Different Forms of Insanity, in Relation to Jurisprudence* (London: Hippolyte Ballière, 1842), p.31.

39 Thomas Mayo, *Medical Testimony in Cases of Lunacy; being the Croonian Lectures* (London: John Parker, 1854), p.64.

40 'Moral Insanity.- Dr. Mayo's Croonian Lectures', *Fraser's Magazine*, 51 (March 1855), pp.245-259 (p.246).

41 'Moral Insanity', *Fraser's Magazine*, pp.51, 254, 251.

42 On Mulock see Peter McCandless, "Insanity and Society: A Study of the English Lunacy Reform Movement, 1815-1870" (unpublished doctoral dissertation, University of Wisconsin, 1974), pp.168-69.



as lunatics who were suffering from unrecognised brain disease. Writing in the capacity of a self-declared 'Attorney-General of Her Majesty's Madmen', Mulock argued that physicians, or as he preferred to describe them, 'medical imposters' or 'accredited quacks',<sup>43</sup> had been given far too wide a margin in the diagnosis of insanity. Seeking in his essay to cast a new light on the 'favourite theme with the boastful extollers of national progress in philanthropic arts and appliances'(p.3) - the improved treatment of the insane - Mulock sarcastically condemned one of the most significant of the 'brilliant novelties' of the 'present auspicious days': the immoderate power of physicians to 'hunt out eccentricities which abound in the infinite varieties of human character, and which are additionally generated by the amazing wealth and proneness to habits of singularity so constantly exhibited in English society'(p.6).

The lunacy legislation had inflicted a 'deadly injury upon society'(p.6) by affording to physicians (whom Mulock argued were no more qualified to diagnose mental illness than the general public), the ability to distinguish madness from sanity. The absolute power to incarcerate eccentric individuals given to 'abstruse metaphysicians' like John Conolly and L. Forbes Winslow represented to Mulock the underbelly (the 'new black art') of the 'golden times of enlightened progress'(p.4). The ability of 'oracular mad-doctors'(p.4) to 'demonstrate the insanity of anyone'(p.4) represented nothing less than a direct and dangerous threat to every 'man or woman [who] has some peculiarities of thought and action'(p.6). Mulock was a close friend of John Thomas Perceval (1803-1876), the fifth son of the assassinated Prime Minister, Spencer Perceval and the object of medical journals' disapprobation during the Nottidge trial. In the early 1830s Perceval had been a patient at two private asylums, Brislington Lodge and Ticehurst Asylum. Upon his release, he wrote extensively, in letters to psychological journals and in his *Narrative* (1840-41), of the degradation and hardship he had suffered while confined, being denied privacy and subject to abuse.

With Admiral Richard Saumarez (1791-1866), in 1845 he established the Alleged Lunatics' Friend Society (ALFS), an apolitical and non-sectarian organisation who campaigned for the reform of the lunacy laws, took up cases of alleged wrongful incarceration, agitated for Chancery reform and for an improvement in the condition of asylums.<sup>44</sup> Regularly lobbying parliament, it secured a victory when one of the organisation's supporters, Mr Tite M.P., delivered a petition to

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<sup>43</sup> Thomas Mulock, *British Lunatic Asylums: Public and Private* (London: Hill and Halden, 1858), pp.7, 8. Further page references are contained within the text.

<sup>44</sup> With the assistance of a surprisingly wide range of supporters including M.P.s and attorneys, the organisation regularly lobbied parliament and submitted Bills concerning the legal and civil rights of alleged lunatics. Despite their best efforts at focusing attention on the inadequacies of the laws, by the late 1850s the ALFS was on the verge of collapse. Fortuitously, the lunacy panic of that summer presented an unequalled opportunity to rally supporters and attention. On the ALFS see Nicholas Hervey, 'Advocacy or Folly: The Alleged Lunatics' Friend Society, 1845-63', *Medical History*, 30 (1986), pp.245-275.



the House of Commons which secured the appointment of the 1859-60 Select Committee inquiry.<sup>45</sup> Perceval, Saumarez, and Gilbert Bolden, a lawyer and honorary secretary of the ALFS were invited to give testimony. Though expressing many objections to what they perceived as the laxity of the lunacy laws, they all drew especial attention the fact that lunacy legislation stipulated no barriers to prevent the confinement in lunatic asylums of persons ‘possessed of great imagination and invention, of deep reflection, and of an enthusiastic temperament’.<sup>46</sup> To Perceval, it was these eccentric individuals that ‘changed the destiny of nations and the destinies of the world’.<sup>47</sup> Men and women of ‘original minds’ needed to be applauded for their eccentricity and safeguarded from the scrutiny of the psychological physician. This could only be achieved, he concluded, by repositioning the entire focus of the inquiry away from the ‘constant routine and reference to the medical man’, and towards the ‘spiritual and moral part of the subject’.<sup>48</sup> It was only in this way, he felt, that improper detention could be abolished and ‘many amiable and talented, though nervous and eccentric, individuals’<sup>49</sup> be restored to society.

The same year, 1859, the Reverend James Kendall published a short book entitled *Eccentricity; Or a Check to Censoriousness*. Kendall was critical of ‘pharisees and fanatics’ who believed they held a right to hunt down men ‘noted, or only *said to be* noted for *mental* eccentricity’.<sup>50</sup> Eccentricity was ‘a *very interesting* subject’ to Kendall and though he felt he would be ‘deemed heretical’ for doing so, he argued that eccentricity was far more beneficial to the individual than it was dangerous to society. Eccentricities restored health to the body and furnished ‘rational and improving entertainment to the mind’ (p.33). Despite the benefits furnished by eccentricity, Kendall observed that it remained the object of ‘undefinable suspicion’. Those holding the strongest prejudices against it were to be found amongst people of ‘little, low and vulgar minds [...] [who] are so wonderfully obtuse, as to be utterly destitute of all perception of its usefulness [and individuals] [...] so wanting in good taste, as to have no relish for its raciness, point and brilliancy’ (p.189). Though Kendall’s comments concerned the persecution of ministers, his contempt for those whose ignorance blinded them to the usefulness of eccentricity was remarkably similar to Perceval and Mulock’s scathing descriptions of psychological physicians.

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45 Hervey, ‘Advocacy or Folly’, p.259.

46 *Lancet*, (1859) ii, p.127.

47 PP 1859 2nd sess. (156) VII, 501, p.16.

48 PP 1859 2nd sess. (156) VII, 501, p.46.

49 *Lancet*, (1859) ii, p.134.

50 Reverend James Kendall, *Eccentricity; Or, a Check to Censoriousness* (London: Simpkin, Marshall, 1859), p.32. Further page references are contained within the text.



As with Kendall's 'pharisees', medical men had similarly 'made themselves objects, not of esteem and veneration, but of dread, terror and disgust' (p.33).

### iii. *The medical response*

As 'a very useful' society and one 'worthy of the serious attention of the psychologist and the philanthropist', the *Lancet* supported the direction that Perceval, Bolden and Saumarez were forcing the hearings to take.<sup>51</sup> The journal agreed with the ALFS members that the jealousy with which the medical profession asserted their jurisdiction over the insane represented the 'pretensions of the alienists, *par excellence*', and reflected 'the self-esteem that is apt to be engendered by a narrow circle of pursuits, and exaggerated by the interchange of ideas amongst themselves'.<sup>52</sup> In contrast, the *Journal of Psychological Medicine* lost no time in condemning the manner in which the ALFS members elevated the 'so-called civil rights of the lunatic above his rights as a sick man'.<sup>53</sup> In commenting on the testimony of Perceval, Bolden and Saumarez, the journal was unable to wholly leave their evidence to the 'contempt' of its readers because of the importance that the opinions of the ALFS had been accorded by the inquiry and the general public. Because it appeared that the opinions of the ALFS were founded on 'a careful consideration of facts', it was necessary to convince the public that their arguments were the products of 'too-active imagination'.

Though suspicious of the pretensions of physicians, the *Lancet* acknowledged their authority as a collective body. Yet as the comments of a writer in the *British Medical Journal* make clear, physicians themselves were acutely conscious of their precarious reputation: 'It really would seem as though the government looked upon the proprietors of private lunatic asylums in much the same light as the public look upon the swell mob, as a class of people banded together to prey upon their fellow men'.<sup>54</sup> Because of the actions of a 'few incompetent men' who signed certificates 'without sufficient ground or reason [...] serious odium is brought upon all persons associated with asylums for the treatment of the insane'.<sup>55</sup> What most riled the *Journal of Mental Science and*

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51 *Lancet*, (1859) i, p.125. Wakley, M.P., was one of the organization's key supporters. See Hervey, 'Advocacy or Folly', p.252.

52 *Lancet*, (1859) i, p.420. John Conolly was one of several witnesses who reflected this opinion, stating that the weakening of their jurisdiction over the insane would lead inevitably to lunatics falling into 'lower hands'. PP 1859 1st sess. (204) III, 75, p.179.

53 *JPMMP*, 12 (1859), p.67.

54 'Lunacy Law', *BMJ*, (1859), p.193.

55 *JMS*, 5 (1858-59), p.60.



*Mental Pathology* was the way in which the proprietors of private asylums had been singled out for criticism.<sup>56</sup> As one clearly partisan individual noted in a letter to *The Times* in August 1858:

It seems to be forgotten that all the eminent physicians who have especially devoted themselves to the study and treatment of mental disease - surely no ignoble department of a noble art - the very men to whom we owe that system of mercy whose good effects have taught us to abhor the everyday cruelties of a time not long past, have been, and are, with scarcely one exception, the proprietors of private asylums.<sup>57</sup>

To John Charles Bucknill (himself one of the witnesses), an explanation for why the proprietors of private asylums and their medical attendants had become the specific object of opprobrium lay in their 'association with capitalists and speculators' and in their 'character of custodians' whose business was to detain the 'inmates of these institutions against their will'.<sup>58</sup> The chairman of the Lunacy Commission, Lord Shaftesbury conceded in his testimony at the inquiry that private asylums were operated solely for profit. His acknowledgment that private asylums were 'strictly speaking, commercial speculations',<sup>59</sup> riled many specialists in lunacy belonging to the Association of Medical Officers of Asylums and Hospitals for the Insane. Feeling 'directly injured and deeply degraded',<sup>60</sup> by the suggestion of their impropriety (and with it the ravaging of their respectability), they lost no time in condemning the nature of the inquiry. 'The design appears to be', wrote one observer,

to drive men of character, respectability, and honour out of the specialty, by rendering their position so odious, offensive, and repulsive, that no gentleman who had any respect for himself would think of occupying it. For the misdeeds of one or two delinquents, the whole body of men connected with asylums are made to suffer! The order of the day is, hunt the "mad-doctors" down! extend to them no mercy, give them no quarter! Treat them and legislate for them as a *suspected class*!<sup>61</sup>

A number of suggestions for reform of the lunacy laws were considered by the committee including the proposal that private establishments for the insane should be overseen by a new body

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<sup>56</sup> *JPMMP*, 12 (1859), p.410.

<sup>57</sup> Letter to *The Times*, 23 August, 1858, p.9.

<sup>58</sup> Bucknill, *Care of the Insane*, p.vii.

<sup>59</sup> *The Times*, 19 August, 1858, p.8.

<sup>60</sup> *Lancet*, (1859) i, p.420.

<sup>61</sup> 'Proposed Legislation in Lunacy', *JPMMP*, 12 (1859), pp.408-409.



of ‘independant medical examiners’. Just the *idea* of medical examiners ‘chafed the feeling’<sup>62</sup> of those involved in a medical capacity in the care and treatment of the insane. While asylum proprietors pointed out that medical examiners could have no practical knowledge of insanity, Commissioners in Lunacy were aghast at the possibility of another body scrutinising their own actions.<sup>63</sup> Recognising the threat that another body would pose to their autonomy, Shaftesbury argued that the Select Committee should instead support an increase in the number of commissioners and a extension of their responsibilities. As the widespread coverage of the Lytton and Turner cases indicated, the safeguard requiring the provision of two physicians’ signatures on the certificate of lunacy had become ineffectual. One solution lay in the additional signature of a magistrate. This proposal was also contested. Again, Shaftesbury questioned the right of law to provide a solution (though the intervention of a magistrate) by arguing that such a measure would delay the detention of the lunatic and so harm the potentially successful outcome of *early* asylum-based treatment, a cardinal medical rule.

Though both proposals were acrimoniously debated, Lord Shaftesbury’s opinions were influential.<sup>64</sup> The committee concluded in their Report that the necessity for an alteration in the law to demand the inclusion of a magistrate’s signature was ‘more imaginary than real’ and furthermore, posed its own dangers in the form of ‘unnecessary publicity’.<sup>65</sup> The Report continued:

Insanity under any shape is so fearful a malady, that the desire to withdraw it from the observation of the world is both natural and commendable. The reverse of this would in all instances be painful, and in many it would be cruel [resulting in ] injurious comments [...] unnecessary exposure [...] the stigma or prejudice which might permanently attach to [the lunatic].<sup>66</sup>

The Committee’s consideration of the additional safeguard of a magistrate’s signature and the implementation of a new body of medical examiners both posed a serious threat to physicians’ medical autonomy and authority. Yet of equal concern to the profession of mental science was the

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62 ‘The New Lunacy Bills’, *Lancet*, (1859) i, p.420.

63 To one writer in the *BMJ*, the medical examiners were no more than ‘spies and censors of their brethren who have been bred to the specialty’. *BMJ*, (1859), p.193.

64 Though the formation of a body of medical examiners was approved, Shaftesbury’s opposition to a magistrate’s signature was upheld. See Georgina Battiscombe, *Shaftesbury: The Great Reformer, 1801-1885* (Boston: Houghton Mifflin, 1975), p.258.

65 PP 1860 (495) XXII, 349, p.viii.

66 PP 1860 (495) XXII, 349, p.ix.



role played by the press and publicity in heightening the public's fear of the asylum and its proponents. Their success in countering public opinion was in many respects dependant on ensuring that the public 'rest content for a short time to regard medical practitioners in lunacy as curative agents, and not as avaricious ogres'.<sup>67</sup>

Though the assumption that wrongful confinement was widespread was a 'vulgar idea', the *Lancet* was one journal not surprised by the depth of anxiety it engendered: 'The crazy people at large form so large a proportion of society, and fear is so contagious, that [...] one ought not to be surprised at it; the less so when we consider the ignorance of the public, and of the newspaper leaders of the public, in all matters relating to lunacy'.<sup>68</sup> Reflecting contemporaneous medical opinion, John Charles Bucknill believed that the success in treating cases of insanity was dependant on securing early treatment in a lunatic asylum. However he felt that such a 'hope was to remain distant while the newspapers continued to open 'their sweet melodious voices upon the poor mad doctor'.<sup>69</sup> Bucknill was one of the major spokesmen defending the medical establishment before the Select Committee and was scathing in his attack on the role that newspapers had played in manipulating public opinion against psychological physicians and denigrating their right to *speak* authoritatively on behalf of the lunatic. While it was a 'wonderful thing this newspaper press of ours [...] the palladium of liberty, the great engine of education [...] we must add in all that is wrong, the fountain of the pure waters of truth, but alas, sometimes also the sewer of calumnious falsehood'.<sup>70</sup>

'The sane people confined in lunatic asylums under the easy facilities of the act', Bucknill wrote, 'are ghosts of newspaper writing. They cannot be brought to the bar as tangible realities'. Though he believed that the defects in the lunacy laws had been attributed unjustly to those acting under it, amendments in lunacy legislation were necessary 'if for no other purpose than to take the wind out of the sails of these panic-mongers, and effectually to reassure the too credulous public'.<sup>71</sup> Though the newspaper press was perceived by the medical establishment to be unfairly opposed to the existing legislation and persons connected with lunacy, periodically leading 'senseless' campaigns, because they formed 'a current clinical record for the psychological physician',<sup>72</sup> they

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<sup>67</sup> *JPMMP*, 12 (1859), p.412.

<sup>68</sup> 'The Lunacy Laws', *Lancet*, (1859) i, p.221.

<sup>69</sup> [John Charles Bucknill], 'The Newspaper Attack on Private Lunatic Asylums', *JMS*, 6 (1859-60), p.146.

<sup>70</sup> *JMS*, 6 (1859-60), p.146.

<sup>71</sup> *JMS*, 6 (1859-60), p.152.

<sup>72</sup> *JPMMP*, 13 (1860), p.lxiii.



ironically offered evidence of the necessity of medical intervention. To the *Journal of Psychological Medicine and Mental Science*, the case of Oliver Cromwell, for example, represented a ‘singular illustration of popular information concerning lunacy’.<sup>73</sup> Cromwell was a young man who lived in rented accommodation in the borough of Westminster in London. Though free to come and go as he pleased, he remained ostensibly under his landlord’s surveillance. Cromwell held ‘war-like propensities’ and arming himself with ‘sundry murderous steel weapons’ attacked his landlord. In illustrating an ‘exceedingly narrow escape from another horrible butchery by a homicidal maniac at large’, the criminal case was important because of the way that it could ‘teach the press, who are too apt to cavill [sic] with the alienist who is desirous of placing lunatics of this species under durance or strict watch, that it is only by sequestration or constant surveillance that the public can be protected from their dangerous tendencies’.<sup>74</sup> Because Cromwell’s insanity was ‘neglected or unrecognised’, it played ‘immense mischief in society’ and thus highlighted the need not only for expert medical intervention but also for early treatment in asylums.

#### *iv. Mill and eccentricity*

Perceval believed that in order to prevent individuals being improperly deprived of their liberty, it was imperative to break down what he termed the ‘jealousy’ of the medical profession over the alleged lunatic and replace it with a ‘system of clerical protection’.<sup>75</sup> By offering the alleged lunatic as much protection and publicity as possible, Perceval’s advocacy of a system in which the sanction of a magistrate or a clergyman was needed prior to the alleged lunatic being sent to an asylum reflected Mulock’s belief in the necessity for ‘public vigilance and enquiry in all cases of alleged lunacy’ (p.49). In contrast to the Committee’s Report which saw in ‘unnecessary exposure’ a danger to the lunatic and his or her family, both lay-reformers advocated the productive power of public opinion in ‘fixing’, as Mulock put it, ‘the public attention on the momentous matters’ (p.37) confronting the legislators of lunacy law.

On 31 July 1858, J.S. Mill wrote a lengthy letter to the *Daily News* expressing his outrage at the ‘frightful facility with which any persons [...] may be consigned without trial to a fate more cruel and hopeless than the most rigorous imprisonment’.<sup>76</sup> Mill’s impassioned diatribe also attacked the ineptitude of the lunacy legislation. Mill’s comments, like those of others, roused and reinforced public alarm at the apparent ease with which sane individuals could be subjected to illegal

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<sup>73</sup> *JPMMP*, 13 (1860), p.xxxix.

<sup>74</sup> *JPMMP*, 13 (1860), p.xxxix.

<sup>75</sup> PP 1859 2nd sess. (156) VII, 501, p.43.

<sup>76</sup> [J. S. Mill], ‘The Law of Lunacy’, *Collected Works of John Stuart Mill*, 25, pp.1198-1199 (p.1198). First published in the *Daily News*, 31 July, 1858, p.4.



incarceration. In contrast to criminals, whose incarceration was always the result of a public investigation and determined on the verdict of a jury, Mill believed that

a perfectly innocent person can be carried off to a madhouse on the assertion of any two so-called medical men, who may have scarcely seen the victim whom they dismiss to a condition far worse than the penalty which the law inflicts for proved crime [...] [To these] unfortunates the ordinary use of speech is virtually denied; their sober statements of fact, still more their impassioned protests against injustice, are held to be [...] instances of insane delusion. And this state any two medical men may secretly inflict.<sup>77</sup>

Along with Mulock and Perceval, Mill was forthright in his condemnation of the secrecy that characterised the lunacy laws. Like the ALFS, he recommended the institution of a jury to decide the fate of an alleged lunatic.<sup>78</sup> Ensuring publicity at a preliminary stage in the proceedings, a jury inquiry would fix ‘attention on any unavowed motive which may actuate the promoters of the proceeding’ and thus act as an effective safeguard to prevent illegal or unlawful incarceration. Yet despite Mill’s ‘earnest’ desire to promote ‘the exertions of intelligent reformers’ and support their continued efforts ‘at rousing public opinion on a matter so vital to the freedom and security of the subject’,<sup>79</sup> Mill retained reservations about the use of a jury because he felt that too often the public were ‘foolish and credulous’ and ‘only too willing to treat any conduct as madness which is ever so little out of the common way’.<sup>80</sup>

In *On Liberty*, Mill sought to examine theoretical constructs underpinning the dichotomous relationship between authority and liberty and to explore the ‘nature and limits of the power which can be legitimately exercised over the individual’(p.217). Mill believed in the liberty of thought and feeling and in the ‘absolute freedom of opinion and sentiment on all subjects, practical or speculative, scientific or moral, or theological’. Equally important was the ‘liberty of tastes and pursuits, of framing the plan of our life to suit our own character, of doing as we like [...] without impediment from our fellow creatures, so long as what we do does not harm them, even though they should think our conduct foolish, perverse, or wrong’(p.226). While in the early stages of society strong impulses ‘overwhelmed social principle’, by the mid-nineteenth century

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77 [Mill], ‘Law’, *Collected Works*, 25, p.1198. Mill was especially concerned at the ‘knaves’ who certified for the sake of the fee, and ‘weak creatures’ who were ready to certify insanity on the grounds of ‘anything affirmed by a gentleman and a man of position’. Such remarks appear directed at Edward Bulwer-Lytton.

78 In preventing collusion between physicians and relatives of the alleged lunatic, a jury trial before admission was supported by the ALFS. See Hervey, ‘Advocacy or Folly’, p.246.

79 Mill, ‘Law’, p.1198.

80 Mill, ‘Law’, p.1198.



society had overwhelmed the individual. Nothing, he believed, could be desired strongly without moral disapprobation or medical intervention. That 'so few now dare to be eccentric' was to Mill the 'chief danger of the time'(p.269).

In all classes of society, he believed, 'everyone lives as under the eye of a hostile and dreaded censorship'(p.264) resulting in a 'withering of strong wishes and native pleasures'(p.265). Though in his letter to the *Daily News* Mill expressed reservations about juries, he remained adamant that publicity, and the rousing of public opinion, was an important strategy in the prevention of wrongful confinement. In contrast, in *On Liberty* Mill expresses greater hesitations about the destruction of liberty posed by the 'moral coercion of public opinion'(p.223). Far 'more formidable than many kinds of political oppression'(p.220), he argued, was the operation of 'social tyranny'. Though individuals were still controlled by political functionaries acting in the capacity of public authorities, more dangerous to individual liberty was the domination of 'prevailing opinion and feeling [...] to impose, by means other than civil penalties, its own ideas and practices as rules of conduct on those who dissent from them [...] [and] to fetter the development and [...] prevent the formation of any individuality not in harmony with its ways'(p.220).

Conformity, Mill argued, maimed 'like a Chinese lady's foot, every part of human nature which stands out prominently and tends to make the person markedly dissimilar in outline to commonplace humanity'(pp.271-272). Most threatened in such an austere and repressive society were those with eccentricities of conduct and peculiarities of taste. Instead of defining eccentricity as a reproach to society and a form of 'moral delinquency', Mill, like Perceval, believed that it should be consciously fostered. Mill equated eccentricity with strength of character and saw such 'strong impulses'(p.263) as vital to the healthy development of society. The danger to Mill lay not in the excess but in the resultant deficiency of 'personal impulses and preferences'(p.264). Yet he remained fully aware of the potential consequences of doing 'what nobody does': a commission *de lunatico inquirendo*. Mill's concept of liberty involved a correspondent debasement of authority. He believed that whatever 'crush[ed]'(p.266) individuality was despotic. Nowhere was this more evident than in the court rooms of medico-legal trials and commissions of lunacy, contested arenas in which the lay-public juries, the judicial authorities and physicians (employed as expert witnesses) met to decide the fate of individuals retaliating against accusations of alleged insanity.

In a conspicuous departure from theoretical speculations, Mill set forth a vision of the commission that made clear his distaste for such proceedings. The evidence that was presented in judicial commissions was both 'contemptible and frightful':

All the minute details of his daily life are pried into, and what ever is found which, seen through the [...] faculties of the lowest of the low, bears an appearance unlike absolute commonplace, is laid before the jury as evidence of insanity, and often with success; the jurors being little, if at all, less vulgar and ignorant than the witnesses, while the judges, with that extraordinary want of knowledge of human nature and life which continually astonishes us in English lawyers, often helps to mislead them.(p.271)



For Mill, the significance of such trials was that they spoke ‘volumes as to the state of feeling and opinion among the vulgar with regard to human liberty’ (p.271). Far from setting any value on individuality, neither judges nor juries were able to conceive ‘that a person in a state of sanity can desire such freedom’ (p.271). Mirroring Mill’s feelings, Mulock despaired, ‘[w]hat on earth have doctors to do with the endless eccentricities of the human mind which lead to no violations of the law of the land!’ (p.12).

Underlying Mill’s condemnation of the commission *de lunatico inquirendo* was his distaste for the social codes and unwritten moral laws governing society; codes of behavior that discouraged excess and promoted the improvement of morals and the regularity of conduct. So effective was the strength of public opinion in reinforcing the dictates of society that such ‘encroachment’ was ‘not one of the evils which tend spontaneously to disappear, but, on the contrary, to grow more and more formidable’ (p.227). In just the way that Michelet wrote of the despotic power of the Bastille before its fall in 1789 (discussed in chapter six), Mill saw the conformity of public opinion as almost inescapable, capable of ‘penetrating much more deeply into the details of life, and enslaving the soul itself’ (p.220). Yet it was precisely the cultivation of such idiosyncrasies that needed not only to be protected but fostered for human beings, and in turn human life, to become a ‘noble and beautiful object of contemplation’ (p.266). Without such ‘salt of the earth’ individuals, ‘human life would become a stagnant pool’ (p.267). In a little-disguised critique of Jeremy Bentham’s utilitarianism, Mill maintained that human nature was ‘not a machine to be rebuilt after a model [...] but a tree, which requires to grow and develop itself on all sides, according to the tendency of the inward forces which make it a living thing’ (p.263). Artfully adapting the metaphor of the tree, it was necessary to ‘preserve the soil in which persons of genius grow [...] [for they] can only breathe freely in an atmosphere of freedom’ (p.267).

Although in agreement with Mulock and Perceval on many issues, Mill differed in recognising the theoretical legitimacy of particular kinds of interference. His doctrine sought to apply such principles only to those in the full maturity of their faculties and he believed that children, young persons, barbarians, and those who ‘are still in a state to require being taken care of by others’ must be protected ‘against their own actions as well as against external injury’ (p.224). The rights Mill was concerned to safeguard in law were not applicable to such groups, a point which bore directly on the contemporaneous debates taking place in the field of mental science concerning eccentricity and liberty.

The introduction of monomania and moral insanity into the legal arena dramatically shifted existing paradigms about lunacy and sanity. The vigorous debates that ensued made it clear that the previous definitions of ‘insanity’ and ‘insane’ which had made these states recognisable and thus legitimate, had begun to be challenged. The debates were compounded by Mill’s advocacy of eccentricity and the way that it problematized medico-legal arguments about lunacy and liberty.



Because it rested so precariously on socially-constructed boundaries and contested manifestations of legitimate forms of authority (as defined by and against law), the binary opposition between sanity and lunacy became, with ‘quasi’ forms of madness, an issue of deep concern. The apparent impossibility of agreeing on a definition of ‘lunatic’ that would satisfy, equally, the different legitimate needs of medicine, society and the law proved to be highly threatening: it exposed to full public gaze the arbitrary nature of the debate. As John Charles Bucknill remarked in 1859,

In nature we find no such sharply defined classification: even the exact boundary of the animal and vegetable kingdoms is not ascertained; and in the kingdom of the mind, mind itself is scarcely able to conceive the gradations of power and knowledge. But nature herself must bend to the laws of man!<sup>81</sup>

In an open letter to Lord Shaftesbury on the lunacy law regulating private asylums, Edward Seymour stated that he saw no greater obstacle in the ‘amelioration of the unhappy state of lunatics’ than that found in the ‘prejudices and feelings of society’.<sup>82</sup> Yet whether society was ‘injured’ or protected by the lunacy legislation and the actions of physicians was hotly contested and ultimately unresolvable - evidenced by Mill’s ambivalence - for lunacy specialists and the public at large were confronted with an impossible task:

Omniscience alone can estimate accurately the degree of irresponsibility produced by cerebral disease, the degree of moral freedom and of responsibility left by the same. It is a Gordian knot which no human power can perfectly unravel, and which the most acute forensic intellects have in vain attempted to cut by the sharp line of a legal definition.<sup>83</sup>

Critics of the lunacy legislation argued that everyone had a right to personal liberty and the right to be eccentric without the fear of being incarcerated in a lunatic asylum. To the medical community, the lunatic had a right to be treated and their job was to ensure that the insane were *protected* from themselves. Physicians responded with defensive declarations of superior skill and knowledge gained through years of proximity to the insane. Mirroring the feelings of many physicians, one writer thought it ‘most unwise, injudicious and impolitic to throw any very stringent or vexatious impediments or obstructions in the way of confining the insane’.<sup>84</sup>

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81 John Charles Bucknill, *Unsoundness of Mind in relation to Criminal Acts* (London: Longman, Brown, Green, Longmans & Robert, 1859), p.115.

82 Seymour, *A Letter*, p.6.

83 Bucknill, *Unsoundness of Mind*, p.17.

84 *JMS*, 5 (1858-59), p.61.



The Select Committee hearings of 1859-60 encompassed multiple aspects of the care of the lunatic and revealed the extent to which the lunacy laws were encumbered by an 'entanglement of authorities'.<sup>85</sup> Crucially, the swirling debates which it elicited illustrated the precarious nature of established legislative and medical boundaries distinguishing legal intervention from medical prerogative. As the comments of physicians, lay lunacy reformers, and Mill indicate, it was next to impossible to assert social, medical or legal authority over the lunatic because of the extent to which the legitimacy of insanity itself was in doubt. The lunacy panic of 1858 and the Select Committee inquiry of 1859-60 thus provide an important register of contemporary tensions and provide a fruitful insight into the refiguring of conceptions of power and authority in the domain of lunacy legislation. While ostensibly manifested as a debate over the rights of or claims over the lunatic, it became more powerfully a grid-locked battle over who had the right to authenticate and so enforce, the boundaries delimiting that which constituted the autonomous individual from definitions of lunacy and processes of 'confinement'.

The following chapter will examine many of the concerns expressed by Mill, the ALFS and by psychological physicians (such as the relationship between liberty and authority and eccentricity and public opinion) as they were discussed in relation to one of the more sensational lunacy commissions of the nineteenth century, that of William Frederick Windham in 1861-62. Several issues make the Windham story particularly fascinating in this respect. Unlike the case of McNaughten, no one was trying to argue that Windham had committed a crime. It was never to be a case that revealed tensions between medical diagnoses and civil and criminal culpability. Rather, it exposed fundamental tensions within the ranks of mental science over the acceptability of moral insanity as a valid diagnosis. Never before had so many and such celebrated physicians clashed so openly in the courtroom, and, after the verdict was given, in medical journals. The conspicuous absence of medical consensus on the state of Windham's mind contributed to a perception that the lay public were as qualified as skilled medical practitioners in determining the existence of insanity. With the case of Windham, medical testimony itself was brought into doubt and with it the authority and status long sought for by psychological physicians.

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85 Bucknill, *The Care of the Insane*, p.xxvii.



## Chapter Five

### Moral insanity and the case of William Frederick Windham

As the debates within the medical establishment and between physicians and lay-lunacy law reformers and civil libertarians indicate, diagnoses of moral insanity and monomania were both either perceived to assist criminals in eluding proper retribution or to threaten the civil liberties of eccentric or socially deviant individuals. The controversies that the previous chapters have explored were not confined to England. In the late 1850s and early 1860s in the United States, two prominent physicians, John Gray and Isaac Ray, became embroiled in a controversy over moral insanity. John Gray (1825-86), president of the Association of Medical Superintendents of American Institutions for the Insane and (from 1854) the editor of the *American Journal of Insanity*, felt that the ‘general tendency of the doctrine of moral insanity is bad, whatever show or real feeling of humanity there may be in it’.<sup>1</sup> For Gray, the ambiguity surrounding the disease (resulting from the multiple clinical symptoms) held dangerous ramifications. Its contested use in courtrooms exposed the fragile authority of physicians, disorganised and ultimately nullified the code of criminal law, and so acted to hasten the onset of social anarchy.

While from a religious perspective moral insanity encouraged individuals to ‘indulge in their strongest passions’, in legal terms it protected them from punishment. It tended, Gray continued,

to give to bad education, loose habits, vicious indulgence, neglected parental control, and disobedience to God, an immunity from the prescribed penalties of crime, that is not warranted by the Scriptures, the law of reason, or any codes of human law that assume to be founded on the law of reason or the law of God. (*AJI*, 14, p.321)

Arguing that immoral passions were not representative of a new form of mental illness but were rather representative of perverse viciousness,<sup>2</sup> Gray vehemently concluded that moral insanity was ‘simply and only human depravity’ (*AJI*, 14, p.320). He took issue with the term ‘moral’ because it was ‘too shadowy, fluctuating, indefinable, and disputable, to be firmly grasped by the law’ (*AJI*, 14, p.319). As Ruth Caplan puts it, Gray felt that in

teaching that criminality and bad habits were innate and hence beyond the control of the individual [...] [moral insanity] implied that one prone to destructive and self-indulgent

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<sup>1</sup> John Gray, ‘Moral Insanity’, *American Journal of Insanity*, 14 (1857-1858), pp.311-322 (p.321). Hereafter abbreviated as *AJI*. Further page references are contained within the text.

<sup>2</sup> Fullinwider, ‘Insanity’, p.93.



acts could cease to struggle for self control [...] because in effect, society had sanctioned its deviance.<sup>3</sup>

In the face of Gray's virulent onslaught on moral insanity, in 1861 Isaac Ray (the first Superintendent of the Butler Hospital) published an impassioned defence of the disease. In 1838 Ray had published *A Treatise on the Medical Jurisprudence of Insanity* in which he argued that the legal tests available to determine criminal responsibility, to distinguish right from wrong and reason from unreason, were too narrow.<sup>4</sup> What distinguished Ray from many of his contemporaries, as well as from the English judicial system, was that he accepted moral causes in the diagnosis of lunacy. Implicit in Ray's acknowledgment of moral insanity was his belief that the traditional rationalistic theory of mental disorder as an intellectual lesion was insufficient.

While Gray argued that the unpredictability of moral insanity supplied grounds for excising it from established medical nosologies, Ray saw in the disease's unpredictability a challenge to physicians to rethink the ways in which mental disorder was theoretically interpreted. Because its symptoms were often too random to be easily diagnostically categorised, Ray, like Pinel, argued for more emphasis to be placed on the history of the individual rather than on the visible symptoms. It was only in this necessarily empathetic way that the subjective life of the individual could be penetrated and a precise diagnosis made.

Though he agreed with Gray that diversity of medical opinion had mischievously acted to degrade the dignity of the 'professional character'<sup>5</sup> of physicians, he took issue with Gray's denial of the existence<sup>of</sup> moral insanity, arguing that Gray's objections to moral insanity were grounded in insubstantial metaphysical arguments that sought to loosely associate moral obliquity with vice or unbridled passions (a strategy which served to startle the public with the spectre of social chaos). Ray argued that the objections to moral insanity he was at pains to refute were grounded in the taint of charlantry that accompanied the disorder (it was grounded in theories of phrenology) and the ignorance surrounding the disease.

While mistaken inaccuracies regarding diagnosis of moral insanity were not themselves dangerous, when they were expressed in the courtroom they became hazardous. While the courtroom was a stage in which the identity and knowledge base of the emerging psychiatric

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3 Ruth B. Caplan, *Psychiatry and the Community in Nineteenth-Century America: The Recurring Concern with the Environment in the Prevention and Treatment of Mental Illness* (New York: Basic Books, 1969), p.123.

4 Recall, during the trial of McNaughten, Cockburn's employment of Ray's work on medical jurisprudence to undermine the idea that madness could only be detected if accompanied by explicitly insane actions.

5 Isaac Ray, 'An Examination of the Objections to the Doctrine of Moral Insanity', *AJI*, 18 (1861-62), pp.112-138 (p.113). Further page references are contained within the text.



profession was developed (and presented to the lay public), it was equally a stage of dissent.<sup>6</sup> Ray was dissatisfied with the hesitation of the courts to yield to what he understood to be scientific truth. The judicial system, he believed, simply had not progressed at the rate of science. This was all the more distressing because of the ignorance that was consequently disseminated through newspaper coverage of medico-legal trials. The ‘objections which seem too puerile for serious refutation are urged upon courts, paraded in newspapers, and patronised by amateur writers on the legal relations of the insane. In this way’, he believed, ‘they get a sort of factitious authority which deceives the ignorant or unwary and therefore procures for them a degree of attention they would never obtain by their intrinsic merits alone’ (*AJI*, 18, pp.137-38).

The debates which were taking place in England over moral insanity were inflected with a set of concerns which were identical to those expressed by both Ray and Gray in the United States. In both the chapters on Louisa Nottidge and the 1859-60 Select Committee inquiry, we saw that the anger expressed by agitators for a reform of the lunacy laws was directed at the authority of physicians to locate in eccentricity the seeds of lunacy. The focus of this chapter, however, will shift from examining the anxieties produced by the perceived conflation of quasi-forms of insanity with eccentricity to consider a set of different concerns centring on the relationship between moral insanity and moral depravity. This chapter will examine moral insanity as it was represented within English medical and legal circles in the mid-nineteenth century through the lens of the commission *de lunatico inquirendo* instituted against William Frederick Windham in 1861.

Central to Ray’s defence of moral insanity was the need to draw medical and legal distinctions between moral insanity and moral depravity. Yet as the case of Windham makes clear, it was impossible to achieve these distinctions when even eminent psychological physicians like Forbes Benignus Winslow reinforced the confused medical understanding of the disease entity by suggesting that the morally insane were ‘guilty of acts of private and public indecency, dishonesty, debauchery, and beastly intemperance’.<sup>7</sup>

This chapter will first examine the medical controversy over the contested relationship between moral insanity and medical, legal and individual responsibility, paying particular attention to the perceived relationship between moral depravity and the onset of modernity. The second section considers the actions, events and anxieties which led to the implementation of the commission *de lunatico inquirendo*, sensational not only because of the stature of the instigators of the commission and the detailed treatment of Windham’s actions, but also because it pitted against one another several of the most distinguished psychological physicians of the period. While the third section will examine the role played by physicians in the inquiry, the fourth section will look

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<sup>6</sup> Belkin, ‘Moral Insanity’, p.592.

<sup>7</sup> Forbes Benignus Winslow, *On Obscure Diseases of the Brain and Disorders of the Mind*, 2nd edn (London: John W. Davies, 1861), p.280.



at the coverage of the commission in the press, considering in particular how physicians were popularly conceived. The concluding section will reflect generally upon the way in which moral insanity framed a series of important but overlooked medico-legal debates which, I argue, paradoxically harmed the professional credibility of the profession of mental science by bringing into question the value of medical testimony itself.

*i. Morally insane or morally depraved?*

With partial insanity still fresh in the minds of the public from the McNaughten case, how to reconcile the raving actions of a madman with the apparently rational and coherent processes of reading, writing and thinking was the question which Arthur Ladbroke Wigan set himself the task of answering in his 1844 tract on insanity, *The Duality of the Mind*. To Wigan the explanation for the apparent paradox lay in the individual's 'possession of two complete and perfect organs of thought with opposing volitions'.<sup>8</sup> Famous for positing the idea of the dualistic nature of the brain, Wigan argued that mental instability arose from the inability of the 'conscious' half of the brain to stem a disordered train of thoughts in the other half of the brain. In producing unprecedented and dangerous levels of excitement, printing, steam power, and railroads had deranged all known mental 'combinations' and made it increasingly difficult to check false impressions, feelings and actions. He believed firmly in the connection between mental derangement and the many forms of indulgence generated by modern life.<sup>9</sup>

For this study, the most interesting sections of Wigan's tract are those that consider the 'horrible doctrine' of moral insanity. Turning to a case described by Prichard in *On the Different Forms of Insanity in Relation to Jurisprudence* (1842)<sup>10</sup> Wigan, like Gray, was aghast at the way in which the excuse of insanity was endorsed in cases that for him were clearly examples of perverted moral conduct. The case which Prichard argued represented a classic case of moral insanity was to Wigan solely representative of the 'common, regular process of depravity, and shews [sic] no other sign of insanity than is inherent in all vicious conduct' (p.250). Rather than illustrating the collapse of one's moral rectitude and so evidencing moral insanity, it was a case 'of what common people call 'madness spelt with a b' - badness' (p.252). Wigan believed that the individual exhibited the 'grossest criminality' and such a form of depravity should not, he stated, be afforded the 'shelter of irresponsibility' (p.254). Wigan thought that the idea that moral depravity was a cause of

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8 A. L. Wigan, *A New View of Insanity - The Duality of Mind* (London: Longman, Brown, Green and Longman, 1844), p.56. Further page references are contained within the text.

9 To gain a sense of the breadth of 'popular delusions' see Charles Mackay, *Memoirs of Extraordinary Popular Delusions*, 2 vols (London: Richard Bentley, 1841).

10 Prichard, *On the Different Forms of Insanity*, p.31. Further page references are contained within the text.



madness was a ‘dangerous doctrine to promulgate’, holding the potential to ‘dislocate the whole frame of society’ (p.254). Deriding its adherents as ‘crazy enthusiasts’, his comments indicate the anger elicited by the doctrine of moral insanity.

In 1861, Sir James Crichton-Browne (1835-1938) was elected Senior President of the Royal Medical Society, Edinburgh. In his Inaugural Address to the members of the Society he addressed the perceived relationship between insanity and the onset of industrialisation. He argued like Wigan that in an age of railways, gas, electricity, and of ‘velocity in thought and action’, all minds were stretched to limits previously unknown:

We live in a vortex of excitement; every impression is intoxicating, every idea stirring. Whilst of old they tended their herds and tilled the land, and lived in a place of placid monotony in a limited sphere, we now run round the world, and experience every vicissitude of life.<sup>11</sup>

In the ‘doubtful system of competition’ (p.27) which now prevailed in all professions and employments, there were many who failed to lay claim to ‘membership of the mental aristocracy’ because of improper marriages, excessive exertion of body, impure air, sedentary habits, unhealthy occupations, intemperance, and immorality. Imbued in contemporary scientific theory, particularly Spencer’s concept of the survival of the fittest and Darwin’s theory of natural selection, Crichton-Browne concluded that as ‘certainly as the powerful mind will rise and conquer in this struggle [...] the weak or less powerful mind will be disordered or overcome’ (p.27). Those who were left by the wayside in the struggle for position and excellence and who thus represented a potential danger to society, included those ‘congregations’ of dangerous classes consisting of men with ‘dwarfed intellects, low morals, violent passions, and degrading vices’ (p.27). Foreshadowing the therapeutic pessimism which was to characterise late-Victorian psychological theory and practice, Crichton-Browne’s cynical view hinged on its inevitability and reinforces the extent to which the two writers were divided by fundamentally distinct theoretical interpretations of insanity.

Yet despite conflicting interpretations of what constituted the effective treatment of insanity, if this was indeed at all possible, Wigan and Crichton-Browne were linked by their acknowledgment of a complicated relationship between modern life, depravity and insanity. Implicit in their comments lay a concern with the unstable boundary between moral depravity and mental illness; whether socially-deviant behaviors, actions and beliefs constituted insanity or whether they were merely symptomatic of the ‘grossest criminality’ for the which the individual should be held accountable. The following section will examine these issues as they were manifested in the commission *de lunatico inquirendo* instituted against William Frederick Windham in 1861.

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11 J. Crichton-Browne, ‘The History and Progress of Psychological Medicine’, *JMS*, 7 (1861-62), p.27. Further page references are contained within the text. On Crichton Browne see Taylor, *Embodied Selves*, p.395.



As we have seen, a central aspect of the debates and discussions about insanity was the inadequacy of existing terminology to accurately define mental disorder. Just as Esquirol's homicidal monomania, or partial insanity, was too loose a term to be employed in McNaughten's defence, moral insanity was too problematic to be employed by physicians in the Windham inquiry. As Gray pointed out, moral insanity had from its inception been susceptible to misinterpretation because of the multiple meanings of 'moral'. When moral insanity was first introduced in the 1830s, the term 'moral' was interpreted under the auspices of psychology and held no ethical connotations. By the 1860s this was no longer the case. Whereas with Conolly the term 'moral' signified psychological therapy, in the framework of moral insanity the term referred primarily to a lack of conformity to social norms.<sup>12</sup> The difficulty arising out of what was perceived to be confusing linguistic terminology led to the petitioners' counsel in the Windham trial using the term unsoundness of mind instead of moral insanity, yet for legal purposes the two terms were essentially indicative of the same disorder.<sup>13</sup>

*ii. Windham: mad or bad?*

Since its construction by the Norfolk branch of the Windham family in the late-sixteenth century, Felbrigg Hall near Cromer had undergone successive alterations and renovations. It was in the nineteenth century, though, that the estate experienced unprecedented expansion. After the death of Admiral Windham in 1833 his son, William Howe Windham, inherited Felbrigg. Though educated in Norwich and at Eton, William Howe 'never much cared for books', and was 'essentially a man of the open air all his life'.<sup>14</sup> Seizing every opportunity of enlarging its holdings, Felbrigg benefited from the 'rough, unlettered',<sup>15</sup> squire's lack of worldly concerns. For £65,000 in 1845 he purchased the Hanworth estate, 1500 acres of land lying to the south of Felbrigg Hall.

On 9 August 1840 William Howe's wife, Lady Sophia Windham (*née* Hervey), the youngest daughter of the first Marquess of Bristol, gave birth to their only son, William Frederick Windham. After being educated by a series of private tutors, Windham was sent to Eton. However when his father died in 1857 he returned to Felbrigg. Under the will, Windham Howe's brother, Major-General Charles Ashe Windham (famed for leading an assault on the Redan in 1855) and Lady Sophia were appointed his guardians. In the event of Windham's death, the General's sons

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<sup>12</sup> Caplan, *Psychiatry and the Community*, p.119.

<sup>13</sup> See Phillips, *The Law concerning Idiots*, p.1-2.

<sup>14</sup> Robert Windham Ketton-Cremer, *Felbrigg - The Story of a House* (London: Rupert Hart-Davis, 1962), p.235.

<sup>15</sup> The diarist Charles Greville quoted in Ketton-Cremer, *Felbrigg*, p.246.



would succeed to the estate. When the General was sent again to India in 1857, Windham was made a Ward of Chancery and his two other uncles, Lord Alfred Hervey and Captain Henry Windham were appointed additional guardians. In 1858, Lady Sophia met and fell in love with a young Italian opera singer, Signor Giubilei. Windham grew up in what many agreed was an eccentric household.

On 9 August, 1861, at the age of twenty-one, Windham would cease to be a ward of court and would inherit Felbrigg Hall and receive its annual income of £3000. Two months prior to attaining his majority, Windham met a young prostitute, Agnes Willoughby, at Ascot. Three weeks after his legal and financial independence, he married her and settled on his new wife £800 a year. As concerning to his relatives as the sudden marriage was the circulation of a rumour that Windham had decided to sell the estate's timber (at a reduced price) to an acquaintance of Willoughby's, 'Mahogany Roberts'. Fearful that the vast Felbrigg estate would be destroyed by such a business transaction, between October and December 1861 the General wrote to family and friends requesting their support in securing a judicial inquiry, or a commission *de lunatico inquirendo*, into the state of his nephew's mind.

Though the letters no longer exist, the responses indicate the strength of the General's anxieties. 'My Dear Charles', Mary Chase wrote on 20 December, 'I lose not a moment in answering your letter. Most heartily do we join in the prayer of the petition [...] Oh how we hope you will succeed & wish that Felbrigg were yours. It makes me quite sick to think of all the fine old trees being cut down'.<sup>16</sup> The vicar of Wadhurst in Sussex, John Foley, wrote that though he had not seen Windham since he was a little boy, 'I say that no sane person could act as he has done & if you ask my opinion I don't hesitate to say that I think it is your duty [...] to lose no time in taking means to put him under some restraint'.<sup>17</sup> Another respondent, Robert Hook, replied that

the course you propose taking is the only one that can save our unfortunate nephew [...] from absolute ruin, and is thus as humane as it is wise. Should you succeed in getting a committee of management of his property [...] I only hope it will [...] thus annul and cancel the acts he has already done, which proved he is not and was not in a state of mind to have charge of his own affairs.<sup>18</sup>

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16 NNRO: MC 580 (MS33514). The letters and various anonymous newspaper cuttings are pasted into a volume (with no page numbers) owned by Peter Hansell, the Norwich-based solicitor who had acted for the petitioners. It is held at the Norwich and Norfolk Record Office in the Hansell Family Papers Collection.

17 NNRO: MC 580 (MS33514).

18 NNRO: MC 580 (MS33514).



Secure in the knowledge of support, fifteen members of Windham's family, led by the General, brought a petition to the Court of Chancery in November 1861. Making out a *prima facie* case on the ground that Windham was morally insane, an inquisition was ordered. Opposing the petition, Windham (now officially an 'alleged lunatic') maintained the right to request that the case be heard before a special jury. Should the jury find Windham a lunatic, there were two options available to the petitioners. One was to make an application for the appointment of a committee of the person. While many witnesses were brought to London by the prosecutors to testify to Windham's inability to manage *himself*, it was clearly a desire of the petitioners (on a successful outcome of the commission) to bring a formal application for the appointment of a committee of the estate. Should this in turn be successful, Windham would be considered incapable of managing his property and Felbrigg Hall would revert to the control of Windham's guardians including the General himself.

On 16 December 1861 in the Court of Exchequer in Westminster, and presided over by the Master of Lunacy, Samuel Warren, the inquiry began. The petitioners' counsel, Mr Chambers, sought to prove that Windham was mad by presenting a personal history that would convince the jury of his inability to look after his property. While his *piece de résistance* would be the expert testimony of several of the most acclaimed physicians of the day, he began by producing a string of witnesses who would attest to Windham's antecedent history of strange and immoral behavior; behavior which resulted, he argued, from moral insanity. Windham's defence counsel, Mr Hugh Cairns, argued that although his client may have been eccentric and morally depraved, he was certainly not mad. Cairns also requested the testimony of many witnesses, including other eminent physicians, who testified to his sanity.

Much attention was given over to detailing Windham's eccentric upbringing. Recognising the importance of Windham's early years in making a case for his unsoundness of mind, Chambers opened for the petitioners by setting out a picture of Windham as a rowdy and strange boy, unlike other children. Chambers pointedly drew the attention of the jury to Windham's fondness for 'low company and low pursuits'.<sup>19</sup> One striking aspect of Windham's behavior was his predilection, continued into adulthood, for dressing up and play acting. As Chambers derisively noted, Windham's wish to wait at the dining room table and to wash dishes was encouraged by his father, who 'actually purchased for him the livery of a footman that he might act as the menial he desired to be' (p.4). Hoping that removal to boarding school would stem his propensity to mingle with servants, Windham was sent to Eton. It was there, according to the testimony of a prosecution witness, that he gained the epithet 'Mad Windham'. He was removed from Eton in 1857.

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<sup>19</sup> *An Inquiry into the State of Mind of W. F. Windham of Felbrigg Hall, Norfolk* (London: W. Oliver, 1861), p.4. Further page references are contained within the text.



Windham's conduct was so extraordinary and according to Chambers 'so inconsistent with the power of taking reasonable care of himself' (p.4), that responsibility for his education was transferred to private tutors, including a Mr Cheale. Giving evidence for the petitioners, Cheale stated that he had discovered in his pupil an extraordinary deficiency of mental power. Windham was unable, Cheale thought, to distinguish between truth and falsehood and more dangerously was unconscious of the real character of the lies he often told. Windham's regular use of foul and profane language made him an unwelcome guest among ladies. On one occasion in Torquay Windham broke out into a violent passion at a party and without provocation seized an unknown gentleman and flung him against a wall. Remonstrating with him, Mr Cheale stated to the jury that his pupil's response was to utter a 'loud unmeaning laugh, which showed at once that he was not responsible for his acts' (p.5). To the fascinated delight of the public during the trial, it was revealed that while at Felbrigg Windham was in the habit of gorging himself, devouring his food more like a brute than a 'rational being' (p.5). He often vomited at the dining table, abused and insulted the staff in the kitchen, acted like a buffoon, and screeched and howled regardless of the company he was keeping.

Windham displayed an acute fascination for the railways, an interest that was also used by Chambers to construct a case for his unsoundness of mind. While still under the care of Mr Cheale, Windham purchased a railway whistle and took to using it in his room, 'shutting the door as if it were the door of a railway carriage, and acting as if he were a railway guard' (p.9). Requesting the purchase of a guard's uniform, this 'unfortunate propensity' (p.6) made him a fixture at the local railway station, where he volunteered to assist passengers with their luggage and blow the whistle to start the Great Eastern train. Windham's predilection for trains drew particular attention from the press. As *Punch* mockingly noted with relief, 'what an escape some of the public have had, and what an escape that fast young men have had; either from getting themselves, together with the passengers, smashed, or getting sentenced to penal servitude for manslaughter'.<sup>20</sup> Dressing up as a railway guard was only one of the many disguises Windham delighted in. Possibly because of his uncle's profession, he was also interested in the military and demanded that everyone, including the local Norwich police, call him Captain Windham. Similarly he demanded that the local police converse with him as if he were a detective.

Upon the General's return to England in 1861, he took the unusual step of overseeing Windham's removal to London three months before he was to come of age. Believing that his nephew might respond favourably to independence, Windham was installed in a boarding house in Duke Street owned by the Llewellens with instructions to behave like a gentleman. The couple described to the jury the disorderly behavior and bizarre eating habits (consuming seventeen eggs for breakfast) of their boarder. Despite his uncle's injunction to act like a gentleman, Windham

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<sup>20</sup> 'Amateur Engine-Drivers', *Punch*, 11 January, 1862, p.13.



began to visit the Haymarket, an area frequented by prostitutes. Dressing up as a police constable, he delighted in rounding up women as they left saloons. This fact might well have heightened public fascination with one of the prosecution's key arguments for Windham's unsoundness of mind: his marriage to Ann Agnes Willoughby.

Willoughby, the 'blond horsewoman',<sup>21</sup> had come to London from Hampshire and made an immediate impact in circles frequenting the Queen's Hunt. Prior to her marriage, she had been looked after by several men including a James Garton. Though he had allegedly installed her in a villa in St Johns Wood, she had been lured away by the attentions of the Vicar-General of Canterbury. During this period, though, she was also seen in the company of James 'Mahogany' Roberts, a proprietor of a smart gambling house and, importantly, a sometime timber merchant.<sup>22</sup> As it was stated in court by a Mr Martin, who had lately been the Bailiff at Felbrigg, early in 1861 Windham had found a series of *Times* articles and letters on 'pretty horsebreakers' 'capital' reading. Furthermore, he had allegedly admitted to the bailiff that he would prefer to marry a 'pretty-horsebreaker' than a lady. This is precisely what he did, soon after meeting Willoughby during Ascot week in 1861. Though her marriage to Windham was used to illustrate his mental imbecility, it also acted to draw attention to the apparently scheming nature of both prostitutes and their protectors. The tabloid and broadsheet press coverage of the trial both relished in presenting her as a designing woman. Though admittedly she was a 'pretty Horsebreaker' she was equally a 'worthless woman', a 'strumpet', and a 'notorious woman'.<sup>23</sup>

In turning from Windham's upbringing to his relationship, Chambers argued Windham's marriage to a woman so far removed from his own station reflected both his unsoundness of mind and a serious financial threat to the security of the estate. In the affidavits presented to the Lord Justices prior to the petition being heard, it was evident that Windham's wife's desire for an opulent lifestyle was seen to represent severe financial constraints for Windham. Representing Lady Sophia, Mr Cole explained to the court that selling the timber was the only means that Windham saw to allow his wife to live in the luxury that she desired. The designs of 'Mahogany' Roberts on the estate were at the heart of the Petitioners' concerns and central to Chambers' legal strategy.

To make a sufficient case, Chambers, on behalf of the petitioners, needed to prove that Windham suffered from unsoundness of mind and had done so since childhood. To this end, much of the month-long trial was taken up with evidence from many people who had known Windham as

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21 *Hampstead Express and North London Advertiser*, 4 December, 1861, p.2.

22 Donald MacAndrew, 'Mr and Mrs Windham', *The Saturday Book*, ed. by Leonard Russell (New York: Macmillan, 1951), p.194.

23 *Morning Post*, 6 December, 1861, p.4; *Daily Telegraph*, 27 December, 1861, p.5; *Daily News*, 31 January, 1862, p.4.



a child and as a young man. Witnesses included railway inspectors, housemaids, gardeners, landlords, and policemen. While it was hoped by the petitioners that these witnesses would persuade the jury that Windham was insane, it fell to expert medical witnesses to illustrate the relationship between Windham's bizarre behavior as a child and as a young man and his madness. Their testimony was crucial to the outcome of the trial and crucial in entrenching in the popular mind a fear of the profession of mental science.

### *iii. Psychological physicians*

In order to prove that Windham was insane, Chambers brought to the witness stand three eminent physicians, Forbes Benignus Winslow, Thomas Mayo, and Dr. Southey. While the details of Windham's private life (his venereal disease and his acceptance of an intimate relationship between his wife and Roberts) were salacious enough to heighten the public interest in the case, of more importance here is the manner in which the physicians interpreted Windham's erratic behavior. Winslow had examined Windham in mid-December upon the request of the Lord Justices. In highlighting Windham's apparent insensibility to shame and impassive reaction to his wife's indecent conduct, Winslow concluded that Windham was not 'in a state of mind to realize his moral obligation [and to realize that his reaction to his wife's behavior] [...] was contrary to the usage of society'.<sup>24</sup> Such behavior indicated a striking 'absence of moral sense',<sup>25</sup> on Windham's behalf. To the amusement of the public, Winslow attributed it to amentia, an intermediate condition between idiocy (signified by an absence of development in the mental and moral powers) and lunacy.<sup>26</sup> A synonym for congenital imbecility (signified by an incomplete development of the mental and moral powers), Winslow explained that such a condition did not necessarily require confinement. However, concluding that the young squire was 'a person of unsound mind, incapable of managing himself or his affairs' (p.68) he recommended that Windham be subject to supervisory control and in this way 'be able to conduct himself with propriety' (p.71).

The second medical witness was Thomas Mayo. As we have seen, Mayo believed that insanity was always, however subtly, accompanied by a lesion of the intellect. He thus objected to the doctrine of moral insanity because it conferred irresponsibility and because it collapsed the boundary between vice and insanity. Like Gray, Mayo was a proponent of a 'punishing legal

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24 NNRO: WCK 4/29/17, p.12. Transcripts of proceedings, 1-15 January, 1862. The trial transcripts and proceedings, as well as associated miscellaneous papers, are held at the Norwich and Norfolk Record Office in the Hansell Family Papers Collection.

25 NNRO: WCK 4/29/17, p.28.

26 A derisive letter from 'Pneumatics' employed Cicero to undermine the 'nice distinction now drawn by certain eminent psychological physicians' between amentia and dementia. *Evening Standard*, 6 January, 1862, p.2.



system'.<sup>27</sup> Viewing the insane as fit objects for punishment, Mayo was particularly alarmed by the problems posed by the earliest stage of insanity, when the intellect was not yet impaired and when the disease was perceptible only in motives and actions. In an article republished in the *American Journal of Insanity* only months before the Windham trial, he argued that an individual in this stage of the disease

may destroy the comforts of his family and ruin their fortunes and his own; he may have become a bad father, a savage husband, a profligate and licentious member of society, and a total change of character may have occurred [...] but no false perceptions, no amount of delirium or incoherency may have given evidence that he is mad [...] here is a difficulty which must not be overlooked.<sup>28</sup>

For the protection of society, a patient who exhibited these moral symptoms of insanity should be subject to coercion and surveillance. It was such sentiments which positioned Mayo as a vital witness for Chambers in his attempt to prove that Windham was unfit to manage both himself and his affairs.

Mayo explained to the jury that when he examined Windham, he 'could see in him a very weak intellect and a very impure mind'.<sup>29</sup> Along with Winslow, the physician's attention was most attracted to Windham's description of his relations with his wife. Explaining that he did not differ from Winslow's judgment of the case, Mayo concluded that Windham was unfit to manage himself or his affairs as a result of severe unsoundness of mind. While in other cases all that was needed to secure safety to the patient and his relations was gentle restraint from friends and relatives, 'when the disease has reached the point developed in Mr. Windham it becomes uncontrollable and defies the obligations of decency and society' (p.73). Like Winslow, Mayo did not advise placing Windham in a lunatic asylum. Rather, he should be placed in the hands 'of a person who would prevent him meddling with affairs' (p.73). When cross-examined by Karslake, Mayo was forced to admit that unsoundness of mind was a fitter subject for description than for definition although he firmly restated that moral obliquity, supposing it to mean perversion, was one element in the proof of unsoundness of mind. On what was hoped by the prosecution would be a triumphant authoritative note, Chambers closed their case. As he hoped to have demonstrated through the testimony of numerous witnesses, Windham's appetites, affections, and propensities indicated that he was of unsound mind and wholly incapable of managing his affairs.

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<sup>27</sup> Roger Smith, *Trial by Medicine: Insanity and Responsibility in Victorian Trials* (Edinburgh: Edinburgh University Press, 1981), p.56.

<sup>28</sup> 'Dr. Thomas Mayo on the Moral Phenomena of Insanity and Eccentricity', *AJI*, 18 (1861-1862), pp.81-89 (p.81).

<sup>29</sup> NNRO: WCK 4/29/26, p.32.



In his opening speech for the defendant, Hugh Cairns turned to his client's obvious eccentricities. 'It was natural for any only child', he declared,

with no brothers and sisters, with no companions of his own age, with no companions whatever except tutors whom he disliked, eagerly to embrace the opportunity of frequenting the society of those who were to be found about the house and stables [...] He had a great power of imitating the Norfolk dialect, and representations and pantomimes seen on the stage. He had a great power of imitating the acts and conduct of other people, and he used it in a way which very likely was pleasant to himself, but sometimes not to those who were associated with him.(p.80)

Seeking to challenge the relationship between mental imbecility and eccentricity which Chambers had so carefully constructed, Cairns forced Cheale to admit that many young men were fond of the railway and it did not necessarily indicate a deficiency of mental power. By far the most powerful testimony had come from the three physician's descriptions of Windham's behavior. To counter Winslow's and Mayo's declarations of Windham's mental incapacity, the defence also brought to the bar a number of physicians including John Conolly, Dr Harrington Tuke (Conolly's son-in-law), Edward Seymour, for eight years one of the metropolitan commissioners in lunacy, and Dr William Charles Hood, the Superintendent of Bethlem Hospital.

Harrington Tuke, the first medical witness, declared that he knew 'all the characteristics of idiocy'. Windham, he concluded, was 'certainly not an idiot, nor could it ever enter my mind that he is an imbecile when I consider his powers of observation, the manner in which he instructed his solicitor, and his delicacy in conversation'.(p.102) Countering the defence's suggestion that Windham's propensity to lie was a sign of madness, Seymour did 'not accept falsehoods as proofs of insanity'. Arguing that Windham had 'mind enough to take care of himself and his property', he suggested that as Windham's strange conduct was contracted merely through 'vulgar and bad habits' his behavior would naturally improve if he mixed in 'good society'(p.107). Seymour did not accept moral insanity. 'No amount of what is called eccentricity would', he continued, 'amount to insanity. If a young nobleman were to choose to act as a sweep [...] I should not therefore consider him of unsound mind'(p.108).

Like Seymour, Hood had examined Windham and concluded that his responses to the physician's questions were 'coherent, consequent, and rational throughout'(p.155). Adamant that Windham was not suffering from amentia, Hood directly undercut the medical validity of Winslow's testimony by declaring amentia an 'exploded' term which had become obsolete and no longer recognised. Windham was of 'sound mind'(p.155). Sutherland's testimony similarly challenged Winslow's diagnosis of mental imbecility. Though he felt that Windham was 'rather below the average in point of intellect, [...] he does not at all approach the line where imbecility begins' and was 'of sound mind'(p.171). John Conolly similarly indicated to the jury that when he examined Windham in order to ascertain the state of his mind, he found 'not the slightest



peculiarity' in his demeanour. 'Cheerful, frank, and gentlemanly', Windham was according to Conolly 'assuredly not in an imbecile state' (p.172). Rather, his 'misfortune has been since childhood to have been surrounded by improper persons. He has the capacity to manage his affairs' (p.173). Conolly made clear his opinion that Windham's was 'a most instructive case, as showing the ill effects of improper treatment and neglect in youth' (p.173). All of the physicians called to testify for the defence concurred in the belief that Windham was of sound mind.

Though as we have seen Mayo objected to the doctrine of moral insanity, this did not prevent Cairns from describing him as the 'standard-bearer and champion of the theory of moral insanity - a theory always repudiated by the Bench by the law of England' (p.94). Considering the importance of the medical testimony to both sides, it would be surprising if Cairns did not know that Mayo was one of the most virulent critics of moral insanity. The attention Cairns thus paid to what he described as Mayo's 'curious and unfair reasoning' (p.94) was in all likelihood a deliberate strategy which sought to play on the fears of the jury. It indicates, furthermore, that moral insanity was presumed by Cairns to be familiar to the lay-jury. In his summation of the case for the defence, Karslake returned to moral insanity:

I trust the jury will give no countenance to the theory of moral insanity, which, though dear to Dr. Mayo and the petitioners, has always been scouted and repudiated by the law and the bench of England. Mr. Windham has committed many bad actions, but he is not therefore insane. (p.182)

According to Karslake, the doctrine of the petitioners was monstrous. He questioned where the line was to be drawn between profligacy, vice and insanity. If eccentricities of behavior were indicative of madness, he argued that 'the Divorce court ought to be abolished, and lunatic asylums to be built for adulterers and adulteresses' (p.182).

Warning the jury not to be influenced by Mayo's and Winslow's recommendation of surveillance rather than incarceration, Karslake suggested that the 'object of the petitioners, however it may be described, is to immure Mr. Windham in a madhouse for life' (p.182). Seeking to establish a connection between the jury and his client, Karslake pleaded with them to 'recollect that they were once young themselves' (p.182) and might have conducted themselves in a way that they were now embarrassed to admit to. In enjoining their sympathy for a young man whose liberty, 'which is dearer to him than life' (p.183) had been threatened and who had been wrongfully subject to the gaze of a 'curious and gaping public' (p.182), Karslake concluded his closing speech by confidently asserting that he should not appeal to the jury 'in vain to draw the line between folly and insanity, between profligacy, however great and lamentable, and unsoundness of mind' (p.183).

In his closing speech on behalf of the petitioners, Chambers sought to counter what he viewed as the fallacious testimony of Cairns's expert medical witnesses. Acting more in the spirit of an attorney than a disinterested scientific witness, Chambers argued that Harrington Tuke's



testimony was undermined by his belief that had Windham given away *all* of his property he would be considered an imbecile. Likewise, Seymour, the 'general consoler' was of the 'opinion that all the lunatic asylums [...] might be swept away [...] with great advantage to the community' (p.189). Because Sutherland did not recognise the intermediate state between idiocy and lunacy 'his evidence cannot be regarded as of the least importance in the present case' (p.189). Conolly was simply 'too good-natured' and as one of the 'kindest men living', it was unsurprising that he hesitated to place Windham in an asylum. In summing up their medical testimony, he argued that the

doctors who have appeared for Mr. Windham are partisans of that strange theory that all the weakness, all the imbecility, all the extraordinary conduct of the alleged lunatic, is to be ascribed to a defective or neglected education [...] There cannot be a greater fallacy than the one involved in this argument. (p.189)

In contrast, the medical testimony of Mayo and Winslow was 'complete and conclusive' in establishing 'beyond a shadow of a doubt that he [Windham] is in a state and condition of mind which entitles him and his property to the protection of the Sovereign' (pp.189-90).

Chambers challenged Cairns's argument that the petitioners were acting from base and cruel motives. He argued that his clients had been compelled to institute the inquiry 'by considerations of common humanity' (p.190) in order to protect Windham from the destruction that his actions would cause. To Chambers, Windham 'must be saved [...] from ruin of health and character, from disease and wretchedness of life, from disgrace, from scorn, [and] from repulsion' (p.197). With such evocative sentiments, he closed the case of the petitioners. In his summation of the inquiry, Samuel Warren commented that the 'general body of the evidence which has been brought forward presents a marvellous conflict and contradiction' (p.200). The jury had to decide

between the theory of the petitioners that Mr. Windham's is a case of congenital deficiency of intellect, and that of the defence, that his mental condition is simply the result of neglected education. (p.200)

The most striking absence in the witness stand throughout the inquiry was Windham himself. On a number of occasions Cairns had requested that Windham testify in open court. However believing that this would not be in the interest of the public, and that it might lead to 'hostile actions for slander' (p.201), Warren requested that the jury interview Windham in private. On 28 January, 1862, the thirty-fourth day of the inquiry, after having spoken with Windham the jury returned with the verdict that Windham was of sound mind and was capable of taking care of himself and his affairs. With Mill's essay *On Liberty* (1859) relatively fresh in the minds of interested observers, it was unsurprising that Mill's conception of eccentricity, publicity and public opinion were central in journalistic analysis of the perceived iniquities of the Windham inquiry.



iv. 'Who is not mad?'

In 1861 John H. Breten published *The Tragedy of Life being Records of Remarkable phases of lunacy kept by a Physician*. The first volume included a story narrated by a physician specialising in insanity which detailed the descent into madness of a young and wealthy man, Lawrence Tremlett. Well-born, good-looking, and possessed of the natural gift of pleasing, for years Tremlett presented 'no resemblance to the popular idea of a madman'.<sup>30</sup> He met and married a young woman, Marion St. Maur, who gave birth to their son. However, it becomes clear that Tremlett has a 'perverted appetite' (p.77). Examining Tremlett, the narrator concludes that his patient's 'moral delusions were numerous, and his sentiments were very much perverted, his state resembling that which has been vaguely described as "moral insanity"' (p.189). Two years later, the narrator reads in the paper that a commission *de lunatico inquirendo* had been instituted against Tremlett by his family. He notes that the inquiry into the state of Tremlett's mind aroused interest because there was 'considerable property at stake' (p.204).

The narrator is asked to testify on behalf of the prosecution and the passages detailing his preparation are important in reflecting the disquiet of physicians who are requested to give expert medical testimony. Foreshadowing the problems attendant on the definition and interpretation of moral insanity in the Windham inquiry, the narrator remains a reluctant witness:

I need hardly say that the position of a medical witness is not in any case one to be envied in our profession; but when a physician is called upon to give evidence upon abstract questions where the best authorities differ considerably, it becomes still less so. Add to this there existed [...] a strong prejudice in the minds of ordinary juries, and of the public generally, against those who are termed "experts" or "specialists," and it will be conceded that my reluctance was not an unnatural sentiment. (p.230)

Though the passages<sup>31</sup> which the physician rehearses for the impending trial under the guidance of an Irish barrister are amusing they reveal the extent of the narrator's anxiety. He is taught how to respond to the defence counsel's arguments and how to ensure that his opinions have been properly understood. To this end he is instructed to use the phrase 'unsound mind' because the term "moral insanity" was a term 'too vague' (p.271). Despite explaining to the jury that Tremlett's 'judgment was habitually warped, his emotions perverted, his impulses cruel, and his feelings callous and inaccessible to influences and motive which weighed with other men' (pp.271-72), Tremlett's defence counsel achieved success. His client was found by the jury to be of sane mind and capable of managing his own affairs. The story concludes with the death of Tremlett and the marriage of Marion to Tremlett's barrister.

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<sup>30</sup> John H. Breten, *The Tragedy of Life: Being Records of Remarkable Phases of Lunacy, kept by a Physician*, 2 vols (London: Smith, Elder, 1861), I, p.197. Further page references are contained within the text.



Though one might infer from the absence of any mention of the story in any of the newspapers and journals covering the Windham case that *A Tragedy* was not widely acclaimed or even read, a reviewer in the *Journal of Mental Science* was quick to praise Brenten's work:

Many authors have introduced madness into their works of fiction in moderated proportions, as the great musical composers make use of dischord; but Mr. Brenten's work is altogether on this subject - it is a whole opera in a minor key, or a whole gallery of Fuselli's paintings [...] Few subjects, indeed, afford more scope for the skill of the accomplished word-painter than the lights and shades of mental infirmity.<sup>31</sup>

While the reviewer thought that Balzac and Dumas both wrote 'exquisite' delineations of monomania, the fictional rendering of moral insanity was encumbered by difficulties that few writers could overcome. Too few of the results were 'wholesome to look upon' being derived from a 'vitiating taste which induced the dandys of a former age to pay their twopences to see the poor lunatics in Bedlam, or which recently led lady visitors to Dr. Khan's museum of anatomical obscenities' (p.145).

In contrast, the way in which Brenten examined moral perversion and explored the dilemmas for physicians requested to give expert testimony in medico-legal trials, was 'pure and good' and evidenced a 'profound' knowledge of the subject. It might therefore be read by the most 'accomplished specialist' not only for amusement but for instruction (p.148). Brenten's history of Tremlett's life-long hereditary insanity (his mother was sensationally discovered languishing in a lunatic asylum), represents a unique fictional addition to the factual medical accounts of moral insanity. It is important both for the way it strikingly foreshadowed the heightened anxieties surrounding the fine line upon which the expert witness had to tread in giving testimony in medico-legal court cases and illuminating the difficulties inherent in diagnosing moral insanity. As Mayo wrote of the term moral insanity, there was no 'subject in which the inability of language to make good practical distinctions is more felt than in this [...] It expresses the tendencies of the rules to be laid down, rather than the exact occasion for their application'.<sup>32</sup>

To interested observers, the contradictory testimony of physicians during the Windham commission highlighted fundamental defects in the lunacy laws. Many newspaper columns were given over to discussing the value of the physicians' expert intervention, not least because of the vast expense incurred in employing them.<sup>33</sup> Even within the courtroom the validity of medical

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31 *JMS*, 7 (1861-62), p.145. Further page references are contained within the text.

32 *AJI*, 18 (1861-62), p.82.

33 When deciding whether the case should be heard in Norfolk, Middlesex or London, the Lord Justices were eventually swayed by the expense in bringing physicians to court to provide expert medical testimony. As Cole explained, 'not one of these gentlemen will go down [to Norfolk or Middlesex] under 150 or 200 guineas'. NNRO: WCK 4/29/4, p.5.



testimony was disputed. Mr Bacon (co-counsel on behalf of the petitioners) felt that the ‘value of such evidence before a jury [...] is nothing in such a case as this. There may be cases so doubtful [...] as that it is worthwhile to resort to scientific evidence [...] This is not a case of that sort - it is a case of fact’.<sup>34</sup> The *Daily Telegraph* was one of many papers to ridicule medical testimony. ‘So various, so complicated, and so contradictory are the evidences of mental aberration, that many eminent psychologists have adopted as a starting point, not the question, “Who is mad?” but rather that of “Who is not mad?”’<sup>35</sup>

The *Evening Standard* was no less critical of the way in which the trial exposed the dangers of physicians’ hazardous authority:

It is the doctors, and not judges or juries, who decide whether a man has committed murder by poison. It is the doctors, and neither the Chancellor, nor the Masters in Lunacy, nor juries, who decide whether a man is insane or not. In both these cases the doctors almost usurp the functions of the jury.<sup>36</sup>

Even more suspiciously, the paper thought, ‘doctors create a new species of insanity [amentia], unknown to the law, and then pronounce a man of unsound mind because he comes within their definition’. Underlying such criticism was the belief that in extending the terms of the ‘Inquisition’ to include the little heard of amentia, physicians had injudiciously ‘extended the law immensely’. Equating partial idiocy with partial insanity, ‘they blend them altogether, and then they draw what is, in fact, a metaphysical rather than a medical conclusion’. The *Evening Standard* was most alarmed at the dangers of entrusting the law to physicians rather than to authorised and recognised law-makers. Complaining of the confusion that would inevitably arise in the minds of the jury, the result ‘of such a mode of giving medical evidence, if absolute authority is given to it, is to take the matter literally out of the hands of the jury, and to land them hand and foot in the grasp of the medical witnesses’. The paper was not alone in highlighting the spectre of ‘scientific dictatorship in medical men in matters of mixed law and science’.<sup>37</sup>

Amidst declarations of support, warning notes were sounded. There were distinct divisions of opinion regarding what lessons, if any, could be learnt from the Windham inquiry. One article in *The Times* had argued that the administration and expense that had attended the Windham commission was ridiculous and unnecessary; Windham should have been incarcerated in an asylum or should never have been subjected to the commission. To a writer in the *Cornhill*

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<sup>34</sup> NNRO: WCK 4/29/4, p.7.

<sup>35</sup> *Daily Telegraph*, 27 December, 1861, p.4.

<sup>36</sup> *Evening Standard*, 3 January, 1862, p.4.

<sup>37</sup> *Evening Standard*, 3 January, 1862, p.4.



*Magazine*, *The Times* article represented a 'cavalier and presumptuous way of treating really difficult and interesting questions'.<sup>38</sup> While he agreed that the expense of the inquiry was 'monstrous' and felt that the case was 'disgusting' in its revelation of salacious details, he felt that it nevertheless was important in raising a number of questions including how accurately and adequately to define madness, how to determine what evidence should be admissible in commissions, and what to do with men and women who were eccentric but clearly not mad? The writer believed that the case exposed the disadvantages engendered by the present incomplete state of science, medical knowledge and moral philosophy, especially as it related to the problematic diagnosis of moral insanity.

As the Windham trial sensationally demonstrated, it was both impossible distinctly to draw a line between sanity and madness and to allow for the clinical existence of a middle ground because the 'elementary principles of prudence and morals' remained 'ill-defined'. The writer clearly supported the jury's decision to exonerate Windham from the taint of insanity. The conduct of 'the miserable creature whose infirmities so long disgusted all the newspaper readers in the kingdom was like the conduct of a madman, but it did not in itself prove madness'.<sup>39</sup> Though the spectre of people squandering their money and pestering their friends and society would be ever present, this was not too high a price to pay for individual liberty and 'the benefits [...] which eccentricity confers on mankind'.<sup>40</sup> Though commissions were necessary, 'for lunatics cannot be left at large',

no one who knows anything of the administration of justice, and of the crochets and bias [sic] of skilled witnesses, would ever listen for an instant to the proposal to put the liberty and property of suspected lunatics at the mercy of a set of mad doctors. Either they would shut up everyone who was extravagant and vicious, or else they would fall into radical dissension, each man standing up for his own theory. In either case, the security to the public would be utterly destroyed.<sup>41</sup>

The issue of Windham's insanity or sanity featured in coverage of the trial. Many writers concurred with the *Cornhill* writer in criticising the doctrine of moral insanity. The *Morning Post* was sure that though Windham was foolish, he was not mad:

In the name of common sense we protest against the doctrine that infatuation for, or even marriage with, a worthless woman, and extravagance lavished on a bride, purchased at such

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38 'Commissions of Lunacy', *Cornhill Magazine*, 5 (February 1862), pp.220-232 (p.220).

39 'Commissions of Lunacy', p.228.

40 'Commissions of Lunacy', p.221.

41 'Commissions of Lunacy', p.229.



a fearful sacrifice, is to be deemed insanity. If so, Bedlam and St. Luke's, Hanwell and Colney hatch [sic] may set about building additional wings with all convenient speed.<sup>42</sup>

The *Daily Telegraph* recognised the inherent difficulties in drawing a line between eccentricity and madness. Attempting to situate the Windham case in a wider frame of reference, the paper drew a comparison between Windham and the eccentric character of Daniel Quilp in Charles Dickens's *The Old Curiosity Shop* (1840-41).<sup>43</sup> The paper's position regarding the Windham case was made stark by such a comparison. Despite his marrying a 'strumpet' and being an allegedly 'egregious liar', it remained difficult 'to arrive at the conclusion that Windham is either a sheer madman or a hopeless idiot [...] If all the liars, the mendacious braggarts and boasters in this metropolis were placed under lock and key, would not Bedlam, and St. Lukes, Hanwell and Colney Hatch, require enormous additional space?'<sup>44</sup> 'The most that we can do', the paper concluded at the end of the trial, is 'to check gross and manifest violations of the law, [and] to place restraint upon those who can palpably and indubitably be pronounced lunatics.'<sup>45</sup>

Twenty-four days into the inquiry, *The Times* described the Windham case as 'one of those loose collateral proceedings which have no root in our old law, and which vegetated in the rankness of a system having no part of the nature of our Constitution, and no sympathy with our law's jealousy of the liberty of the subject'.<sup>46</sup> As the article indicated, the inquiry was seen to symbolically threaten anyone's individual liberty: 'This man cannot by law be merely shut up as a prodigal, and he could not be shut up as a madman without endangering the liberty and the property of every man in the country'.<sup>47</sup> In the face of an incessant onslaught of 'wearisome details of filth and folly' the *Daily News* similarly reminded its readers not to forget the 'vital importance of the issue, when on the verdict of the jury depends not only the personal liberty of

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42 *Morning Post*, 6 December, 1861, p.4. Recalling Mill's comments in *On Liberty*, the paper felt that publicity was the 'very soul of justice; it steadies the balance; and judge, counsel, and jury are all the more cautious for it'.

43 Like Windham, Quilp exhibited many peculiarities of conduct, including eating egg shells. The comparison also turned on Quilp's unscrupulous legal advisor's desire for his client to be subject to 'a pretty little Commission *de lunatico*'. See Charles Dickens, *The Old Curiosity Shop* (London: Everyman, 1997), p.285.

44 *Daily Telegraph*, 27 December, 1861, p.5.

45 *Daily Telegraph*, 1 March, 1862, p.4. For a satirical summation of the Law Lord's proposals see *Punch*, 8 March, 1862, p.92.

46 *The Times*, 21 January, 1862, p.6.

47 *The Times*, 21 January, 1862, p.6.



one of the QUEEN'S subjects, but of the establishment of a leading precedent'.<sup>48</sup> Believing that *the* crucial test of insanity lay in an interview with Windham himself, the paper objected to what the *Lancet* described as the 'totally irrelevant',<sup>49</sup> evidence given by witnesses, many of whom were according to the *Telegraph* 'curious, contemptible, base, intriguing, and guilty'.<sup>50</sup>

The announcement of Windham's sanity was met in the courtroom by 'loud cheers' (p.202). It was widely believed that a 'sacred principle of English law' had been upheld in the face of physicians and 'hunting lawyers [...] forgetting the dignity of their profession'.<sup>51</sup> Several papers were quick to caution Windham against misinterpreting the overwhelming public support for the verdict. To the *Telegraph*, it was wholly accidental that the inquiry had 'linked his name by accident with an important principle of justice'. His triumph was merely the 'defeat of a dangerous coalition'.<sup>52</sup> The *Daily News*, too, hoped Windham 'would receive the verdict of the Jury, not as conferring a new license to a life of vanity, but rather as the indulgent voice of the law, and in a certain sense also of the public [...] inviting him to reflect at this crisis of his existence, and make a vigorous effort to render himself worthy of the opportunities which his birth and possessions confer'.<sup>53</sup>

One overarching problem exposed by the papers centred on the inadequacies of the English lunacy statutes. On the continent a medico-legal law existed which recognised an intermediate condition between sanity and insanity. In such cases the 'prodigal' was not relieved of his property or liberty but was assigned to an advisor. In England, one was either insane or sane. Many believed that under the circumstances surrounding the Windham case, 'the inquiry was one utterly unsuited to the tribunal to which it was subjected':

every one felt wounded in his sense of right by the lavish waste, even to confiscation, of the property of a man who had committed no public crime; and that human nature itself shrank from the spectacle of fee'd advocates, with their clutch upon a human subject [...]

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48 *Daily News*, 16 January, 1862, p.4.

49 *Lancet*, (1862) i, p.125.

50 *Daily Telegraph*, 31 January, 1862, p.4.

51 *Daily Telegraph*, 31 January, 1862, p.4.

52 *Daily Telegraph*, 31 January, 1862, p.4.

53 *Daily News*, 31 January, 1862, p.4.



This is not like the car of justice. It is more like the car of JUGGERNAUT, crushing its victims as it rolls.<sup>54</sup>

Though the paper argued that the public should be indebted to the Windham inquiry for destroying ‘one of the few remaining strongholds of injustice which exist in the wild and tangled territory of the law’,<sup>55</sup> it reserved more general criticism for the commission *de lunatico inquirendo*. It was a drawn-out and expensive process which was ‘more ingeniously contrived for insuring an untrustworthy decision at an immense cost than could be devised by the cleverest lawyer of the day’.<sup>56</sup> The one consolation, noted the *Norfolk News*, was that if Windham’s estate was to be inevitably squandered, ‘its proceeds would do no less harm to morality, and quite as much service to society, by circulating through the channels of lawyers, doctors, and witnesses of all sorts, as they would have done through the heroines of the Haymarket’.<sup>57</sup>

#### v. Overview

The newspaper editorials and journal articles discussed above indicate that the Windham inquiry became a site through which to examine and discuss a multitude of issues: the value of medical testimony and the commissions themselves, the dangers implicit in physicians usurping the role of lawyers, the ill-defined and problematic relationships between lunacy, eccentricity and moral depravity, the poor state of medical knowledge as it was revealed through the doctrine of moral insanity, and the contradictory lessons which could be learnt from the case for Windham, the public, the legal profession and for the profession of mental science. Most dramatically, the inquiry itself and the attention it received in the press exposed the fragile ground upon which the authority of the profession of mental science was constructed. Offering up to the angry gaze of the public those physicians whose profitable sideline it was to act as medical witnesses, *All the Year Round* saw in the commission an opportunity to upbraid and ridicule Winslow. To accept moral insanity as a legal entity was in effect to relieve the jury of judicial responsibility and to lay it on

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<sup>54</sup> *The Times*, 21 January, 1862, p.6. Unsurprisingly, *Punch* did not lose sight of the benefits to lawyers to be gained by such Inquiries. See Figure 3 (on p.152), ‘Law and Lunacy’, *Punch* (January - June 1862), p.35.

<sup>55</sup> *The Times*, 28 February, 1862, p.6.

<sup>56</sup> *The Times*, 28 February, 1862, p.6.

<sup>57</sup> *Norfolk News*, 1 February, 1862, p.4.



psychiatrists. Yet to the journal, the greater problem lay in the ability of the physician to ‘insensibly adapt his theories’<sup>58</sup> to either the benefit of the defence or the prosecution:

There is no clear dividing line between sickness and health of mind; unsoundness of mind is, no doubt, as various and common as unsoundness of body; and perfect health of body or mind is the gift of one man in a million in civilized society. Every natural defect of temper is unsoundness. All crime is unsound [...] We walk even upon one leg, breathe by help of a single lung, do our duty in the world as far as our infirmity permits. So it is with the mind. Every man has his weak place; his twist, his hobby. One man may rise to honour, and do noble service to his country, by help of an unhealthy restlessness that Dr. Winslow’s fingers would itch to put under lock and key.<sup>59</sup>

Medical journals similarly debated the testimony of Winslow and Mayo. Though the *Lancet* did not share their opinions, it felt that in comparison to the witnesses testifying for Windham, nothing was ‘more fair or more temperate than the exposition of his case given by Drs. Mayo and Forbes Winslow’.<sup>60</sup> In contrast, the *British Medical Journal* thought that their evidence was ‘artificial’ and the doctrine of moral insanity ‘[v]ery slippery’.<sup>61</sup> The ‘marvellous, and indeed, most scandalous’ proceeding that depended on proving such a clinical diagnosis was ‘beyond the pale of ordinary consideration’<sup>62</sup> and the positions assumed by Winslow and Mayo were entirely ‘opposed to the liberty of the British person’.<sup>63</sup>

Though the journal was embarrassed to welcome Windham as a ‘denizen of the land of Healthy Mind’ rather than unjustly ‘banish him to those dreary realms which lie beyond the limits of rational and free humanity’,<sup>64</sup> it was pleased that the doctrine of moral insanity had been defeated in the court of medical and public opinion. Both journals agreed that the doctrine of moral insanity employed in the ‘expensive farce’ that was the Windham inquiry had exposed the profession to public condemnation, and sought to distance themselves from the criticism that had nevertheless acted to undermine the entire profession’s medical authority:

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58 ‘A Commission of Lunacy: M.D. and M.A.D’, *All the Year Round*, 6 (September 1861-March 1862), pp.510-513 (p.513).

59 ‘A Commission of Lunacy: M.D and M.A.D’, p.511.

60 *Lancet*, (1862) i, p.126.

61 *BMJ*, (1862), i, p.39.

62 *BMJ*, (1862), i, p.146.

63 *BMJ*, (1862), i, p.147.

64 *BMJ*, (1862), i, p.125.



A great amount of very silly abuse has been thrown by some of the journals at our profession in reference to this trial; but most unjustly so. The other professional witnesses were decidedly opposed to the theory of moral insanity; and the fact that this theory was supported [...] solely by Drs. Winslow and Mayo is pretty good proof that other men of celebrity could not be had to endorse their sentiments.<sup>65</sup>

However, both journals remained convinced of the necessity of medical testimony. The *British Medical Journal* was cautionary about the alternatives to the provision of expert medical testimony in commissions and questioned whether ‘an examination, by a jury of non-professional persons, [was] really a satisfactory test of a man’s soundness or unsoundness of mind?’<sup>66</sup> As a result of the Windham inquiry and the difficulties presented by the wealth of contradictory medical testimony, the Lord Chancellor brought a bill for revisions to be made to what were perceived as defective lunacy laws. In debates on proposals for reformed lunacy legislation in the House of Lords, much discussion was given over to the question of how to determine legal incompetence. Lord Westbury, for example, argued that the physiological proof of organic or functional disease (for which physicians were necessary) should not be the test of lunacy. Rather, lunacy should be proven by incompetence in the management of affairs for which lawyers were best qualified. To Westbury, the case of Windham thus exemplified an error of judgment.

Though *The Times* believed that proposals for legislative intervention would prevent the further perpetration of great injustices, the *Daily Telegraph* believed that Lord Westbury’s comments on ‘common sense’ were inherently dangerous. The paper argued that it was impossible to ‘proclaim any principle more dangerous, politically as well as socially. It violates not less the ordinary and popular, than the technical and physiological idea of madness’.<sup>67</sup> Furthermore, such a proposal was tantamount to ‘paternal government [...] a notion [...] alien to English feeling and conviction’.<sup>68</sup> The medical profession was equally circumspect about legislative intervention because of the questionable authority accorded by the Bench to medical evidence.<sup>69</sup> The *Lancet* argued too that the ‘greatest danger to society, the utmost insecurity to property, would arise were lunacy to cease to be determined by medical evidence’.<sup>70</sup>

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<sup>65</sup> *BMJ*, (1862), i, p.147.

<sup>66</sup> *BMJ*, (1862), i, p.147.

<sup>67</sup> *Daily Telegraph*, 1 March, 1862, p.4.

<sup>68</sup> *Daily Telegraph*, 1 March, 1862, p.4.

<sup>69</sup> *BMJ*, (1862), i, p.258.

<sup>70</sup> *Lancet*, (1862) i, p.151.



Another key proposal was that a writ to one of the Judges of Westminster Hall directing the case to be tried in the same manner as any other case (according to the ordinary rules of evidence) would be substituted for the present commission. It was suggested that with this measure the abuses in the Windham case highlighted by the press would be remedied. Other proposals included limiting the length of the inquiry itself, limiting the number of antecedent years to which evidence could be provided in court regarding the alleged lunatic's actions, and demanding that the alleged lunatic should be interviewed by the Judge and jury prior to the reception of evidence. This last proposal was met by *The Times* with relief. The Lord Chancellor,

to check the vagaries of "mad doctors," proposes to introduce into the judicial inquiry affecting lunatics the same rule which prevails elsewhere, - that scientific evidence shall only be admitted when "the subject is removed from the ordinary sphere and knowledge of common sense" [...] Thus [...] [a physician] would not be suffered to give an opinion whether driving a railway train or imitating a cat was to be taken as proof of unsound mind.<sup>71</sup>

In 1862 the Lunacy Regulation Act introduced simpler procedures whereby the appointment of a receiver for a mentally incapacitated person would circumvent the need for expensive and drawn out inquisitions. The criticism that had been directed at Master Warren led also to a new procedure by which petitions of this kind would be tried by a judge of the Queen's Bench Division rather than a Master in Lunacy. To the relief of the press, no longer were 'crazy medical theorists' to be enabled to abuse judicial procedures and no longer was a proceeding which potentially could deprive a man of 'his liberty, friends, home - everything' to be superintended by a man [Samuel Warren] who owes his appointment 'to anything but his knowledge of the law'.<sup>72</sup>

The Windham inquiry had forced the profession of mental science to scrutinise its relationships with the public and the law and to reformulate its position in regard to contested forms of insanity, such as moral insanity, in a way that was entirely new. To secure renewed faith and respect in the minds of the confused and indignant public, it was commonly accepted that the solution lay in the prevention of medical experts as advocates in courts of law. Though defending the value of medical testimony, physicians agreed that impartiality was vital to rebuild some degree of authority: 'The truth is that medical men will never obtain for their evidence the respect it deserves, until they cease to appear as advocates in a court of law. So long as they do, we must expect medical evidence to be treated as the Lord Chancellor has treated it'.<sup>73</sup> Though at least four

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<sup>71</sup> *The Times*, 28 February, 1862, p.6.

<sup>72</sup> *The Times*, 28 February, 1862, p.6. A scathing letter of attack directed at Warren had also been published in the *Daily Telegraph* on 30 January, 1862, p.5.

<sup>73</sup> *BMJ*, (1862), i, p.258.



trials were consequently structured on the new Act, never again was the medical profession scrutinised and condemned in such an hysterical manner as it had been as a result of the Windham trial. Lessons had evidently been learnt.<sup>74</sup>

As indicated by 'Dry Nurse's' references to both Edward Oxford and Daniel McNaughten it was via the drama of the courtroom that moral insanity was often introduced to the lay-public. As the Windham inquiry demonstrates, the sensational coverage such cases attracted served to heighten suspicion of medical intervention. Such was the concern felt by physicians regarding the detrimental popular image produced by their contribution to medico-legal trials that a conscious effort was made, within the ranks, to assist them.

An article published by Ray in the *American Journal of Insanity* in 1851-52 explored the potential pitfalls inherent in the provision of expert medical testimony in courts of law. Acting in the role of the Irish barrister in Brenten's *Tragedy*, Ray hoped that his 'Hints' would act to prevent the medical witness from '*breaking down* on the witness stand'.<sup>75</sup> In order to profit in the performance of his duty the medical witness must be conscious of the derogatory effects on the bench and the jury of making rash comments. Too much confidence, Ray gently reminded his colleagues, might be the ruin of a fellow human-being. Rather, the physician should strenuously attempt to maintain his self-respect through responding to the often critical examination and interrogation of his medical expertise with a calm and collected disposition.

He should keep in mind, most importantly, that there did not exist one definition of madness and if the lawyer was disposed to demand a definition rather than an explanation or a description, he was doing so not to shed light on the issue but to perplex and embarrass the medical expert. 'Above all things', the medical witness should be cool and quiet, and 'never be provoked into a sharp reply or a cutting retort. Let him be careful how he descends from the high position which he holds in virtue of his function, in which he will be always respected as long as he respects himself' (*AJI*, 8, p.62). Reflecting the delicate relationship between the psychiatric profession and the bench, Ray's concluding remarks in *Hints to Medical Witnesses* set forth all that his colleagues could expect when requested to take the stand in medico-legal trials:

He must make up his mind to have his sentiments travestied and sneered at, his motives impugned, and pit-falls dug in his path, with the same kind of indifference with which he would hear the maledictions of an excited patient. (*AJI*, 8, p.62)

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<sup>74</sup> After being denied assistance to pay the legal bill (of around £20,00), immense debt led to the sale of Felbrigg Hall by its creditors. William Frederick Windham died suddenly in 1866 at the age of twenty five. See the *Norwich Argus*, 17 February, 1866, p.4. See Figure 4 (on p.153) for photograph of Windham, c. 1862. Reprinted in *Felbrigg Hall, Norfolk* (The National Trust, 1983), p.56.

<sup>75</sup> Isaac Ray, 'Hints to Medical Witnesses in Questions of Insanity', *AJI*, 8 (1851-52), pp.50-62 (p.51). Further page references are contained within the text.



In respect to moral insanity, which had arrived in court with ‘something peculiarly repulsive to the judicial conscience’ (*AJI*, 8, p.60), the prospects were no better. There existed, he thought, an inability in the legal world to ‘conceive of any insanity that does not involve the intellectual powers ... [and consequently] the accumulation of proof only strengthens the difficulty’ (*AJI*, 8, p.60). Such was the depth of legal prejudice against the doctrine that Ray believed it to have been folly to have ever allowed nosological distinctions to enter the courtroom.

In both the Select Committee hearings of 1859-60 and the commission *de lunatico inquirendo* of 1861-62, there was a noticeable absence of evidence from individuals who had themselves been subject to wrongful incarceration or who were threatened with surveillance. The focus in the following chapter will shift from an examination of medico-legal debates about partial insanity and an exploration of the way that lay-reformers and newspapers expressed consternation with the law, to a consideration of the way that novelists and alleged lunatics themselves conceived of wrongful confinement. It will become clear that the anxiety expressed by Mill at the *secrecy* of certification procedures and the collusion of families and friends was a formative component in the numerous tracts detailing wrongful confinement in lunatic asylums published during the nineteenth century. Seeking to expose the pernicious ‘trade in lunacy’ and reveal the terrors of illegal detention, such narratives offer the reader a ‘version’ of the asylum and its proponents radically at odds with those written by physicians, asylum proprietors and philanthropists; one in which power and abuse were allied and one in which the psychological physician was far from being an agent of humane treatment and enlightened knowledge.



Figure 3.  
 'Law and Lunacy', *Punch* (1862)





Figure 4. .

William Frederick Windham, from a photograph c. 1862





## Chapter Six

### The Prison and the Asylum

In recent years the way that the insane represented themselves and those responsible for their incarceration has been the subject of critical attention.<sup>1</sup> In *A Social History of Madness: Stories of the Insane* (1987) Roy Porter examines the literature of the mad in order to shed light not only on what the insane themselves ‘had to say’ but also on the important and overlooked manner in which such texts echoed ‘albeit if often in unconventional or distorted idiom, the ideas, values, aspirations, hopes and fears of their contemporaries’.<sup>2</sup> In his attempt to situate the narratives in their ‘historico-cultural’ context, Porter comments both on the stories written by the insane themselves and on the stories underlying their production and reception. Though the ‘dialectic of consciousness’ which he seeks to draw out between the beliefs of mad people and ‘their situations and times’ informs the following discussion of narratives written by alleged lunatics, the chapter will focus on the representational and rhetorical strategies used by those individuals wrongfully incarcerated to convey their fear, anger and discontent.

The site of ‘bedlam’ had by the nineteenth century become cemented in the popular imagination as a byword for both uncontrollable frenzy and the horrors of the lunatic asylum. It was an association which Victorian physicians consciously sought to dismantle because it powerfully recalled a bygone world of insanity in which lunatics were wild beasts and physicians’ no more than brutal and devious mad-doctors. It was a world against which they were defining their profession. Yet acknowledging the power of the word ‘bedlam’ to evoke particular associations, it was appropriated by physicians themselves. Recall, for example, John Conolly’s use of the phrase ‘let Bedlam loose’ in 1849 to convey the dangers of releasing the feeble-minded from asylums. As Conolly’s comments indicate, ‘bedlam’ perpetuated fear and apprehension. However, it also supported medical directives which saw in the site of the asylum a means to protect society from insanity and the insane from themselves.

Like Bedlam, the Bastille and associated prison images resonated powerfully in the nineteenth-century imagination. Prisons, like lunatic asylums, similarly generated fears about

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1 See, for example, *Women of the Asylum: Voices from Behind the Walls, 1840-1945*, ed. by Jeffrey L. Geller and Maxine Harris (New York: Doubleday, 1994) and Mary Elene Wood, *The Writing on the Wall: Women’s Autobiography and the Asylum* (Urbana and Chicago: University of Illinois Press, 1994). On eighteenth-century autobiographical accounts of confinement see *Voices of Madness: Four Pamphlets, 1683-1796*, ed. by Allan Ingram (Stroud, Gloucs.: Sutton Publishing, 1997).

2 Roy Porter, *A Social History of Madness*, pp.1, 2. Porter acknowledges Dale Alfred Peterson’s work on life writing and insanity. See ‘The Literature of Madness: Autobiographical Writings by Mad People and Mental Patients in England and America From 1436-1975’ (unpublished doctoral dissertation, Stanford University, 1977), and also *A Mad People’s History of Madness*, ed. by D.A. Peterson (Pittsburgh: University of Pittsburgh Press, 1982).



confinement and the obstruction of personal liberty, sensationally captured by Charles Dickens in his portrayal of Doctor Manette and Charles Darnay in *A Tale of Two Cities* (1859). However, the Bastille and Bedlam carried different associations. While Bedlam was generally invoked in the context of the emotions surrounding lunacy and incarceration, the Bastille was used as a symbol by lunacy reformers, novelists and alleged lunatics to signal the dangers of wrongful confinement. In drawing attention to 'secret' practices and the arbitrary power of physicians to incarcerate anyone against their will, the Bastille became an important trope which was utilised to expose social injustices and condemn abuses committed under the auspices of psychiatric authority. Narratives written by alleged lunatics which used the Bastille as a symbol highlighted opaque yet powerful connections between authenticity, control and empowerment. These accounts were significant because while illuminating the idealistic aims and intentions expressed in medical accounts of the asylum, they also revealed from a new perspective the significance accorded to individual liberty as it related to medical authority and the 'self'.

This chapter is divided into four sections. Though the Bastille was constructed in the thirteenth century, it wasn't until the mid to late-eighteenth century that with the sensational popularity of prison narratives written by its inmates, the Bastille turned into a graphic form of cultural currency. The first short section examines the English response to the destruction of the Parisian prison in 1789 and considers the *Memoir* of one of its more sensational prisoners, Henry de Latude. His account of his captivity served to excite a fascination with and fear of the Bastille and, importantly, Charenton Hospital for lunatics, which was used to great effect by those wrongfully incarcerated in Victorian lunatic asylums. In a consideration of the processes of cultural dissemination by which the Bastille became embedded in the English cultural imagination, the following section will consider Thomas Carlyle's (1795-1881) epic history of the French Revolution. Its publication in 1837 was 'something of a literary event' and 'to the minds of many British readers, made the Revolution itself'.<sup>3</sup>

In the present context, Carlyle's *History* is important as a text which by heightening an interest in the relationship between madness and detention and tyranny and liberty, served to further entrench a Victorian fascination with the Bastille. Much has been written about Carlyle's allegorical use of the elemental forces of nature to convey the barbarities and brutalities that attended the French Revolution. Much less has been written about his use of Bedlam and madness metaphorically to convey the frenzied, uncontrollable Parisian mob. Like Dickens, Carlyle was ambivalent about the Revolution. Both writers were particularly ambivalent about the Bastille. While uniquely symbolising emancipation from tyranny, it simultaneously signalled the horrors of arbitrary rule meted out by the *ancien régime*.

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3 Mark Cumming, "Such a Figure Drew Priam's Curtains!": Carlyle's Epic History of the Revolution', in *Representing the French Revolution: Literature, Historiography, and Art*, ed. by James A.W. Heffernan (Hanover, N.H.: University Press of New England, 1992), pp.63-77 (p.64).



In order to illuminate the extent to which the Bastille held symbolic significance for the Victorians, the next section will consider the Bastille's dual-legacy as its symbolisms were constructed and deployed by a wide range of individuals and groups in the nineteenth and early-twentieth centuries; poor-law reformers, soldiers during the American Civil War, and political prisoners. The second half of the chapter will return to the world of nineteenth-century psychological medicine. Long after it had also come to represent a key site of emancipation from tyranny, novelists, journalists and alleged lunatics returned repeatedly to ideas, images and metaphors associated with the Bastille as an icon of oppression, and employed the prison to condemn the arbitrary nature of the lunacy laws and denounce the despotic authority of physicians.

*i. Theatrical Possibilities - 14th July, 1789*

On August 18th 1789, the front page of *The Times* was adorned with a large advertisement for Astley's Amphitheatre, Westminster Bridge. Entitled 'The Assault of the Bastile'[sic], the theatre was offering an evening of entertainment which included a new dance called 'La Coquette', an unrivaled display of horsemanship by 'Young' Astley and his pupils, rope dancing by a Signor Spinacuta, and a comic burletta called 'The Boot Makers'. The grand finale, paraded as an 'entire new and splendid spectacle', was a performance of 'PARIS IN AN UPROAR!, Or, The Destruction of the BASTILE', a drama which promised to be 'one of the grandest and most extraordinary Entertainments that ever appeared, grounded on authentic Facts'.<sup>4</sup> Though there would be scenes set in the Palais Royale and the Tuileries Gardens, the central scenes were located in the Bastille. The external 'perspective view' of the Drawbridge and the Fosse would show the manner of storming and taking the fortress by the Military and the Citizens, and the internal 'Picturesque View' would include not only the Governor's house but the inside of the Strong Tower, 'Caves', a 'Dark Dungeon' and 'Remote Cells'.

To aid those who had not visited Paris, the spectacle included a model of Paris on 'an extraordinary Large Scale', so large (50 feet by 85 feet) that it was proudly described in the advertisement as covering the whole theatre. Three days later an almost identical advertisement was published again in *The Times* by a Mr Palmer of the Drury Lane Theatre. Entitled 'The Triumph of Liberty, Or, The DESTRUCTION of the BASTILE' it also invited the public to attend 'one of the grandest and most interesting spectacles that ever engaged the feelings of mankind'.<sup>5</sup> A month earlier one would have read in their place advertisements for 'The Mandarin, Or, Harlequin Widower' or 'The Hop-Pickers, Or, The Double Elopement'. The sudden alteration of the performances in London between July and August of 1789 reflected one small but revealing English response to the storming of the Bastille and its portent for the future.

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<sup>4</sup> *The Times*, 18 August, 1789, p.1.

<sup>5</sup> *The Times*, 21 August, 1789, p.2.



As *The Times* suggested, 'the time was auspicious to those of an inventive genius'<sup>6</sup> and the speed with which theatrical promoters like Astley and Palmer produced spectacles for the stage suggested a public fascination that should and could easily be accommodated. The storming of the Bastille was to the English an event at once horrific and sensational. The supposed instructional models supporting the melodrama were overshadowed in the advertisement by the morbid spectacle of the Bastille's caves and remote cells. Though *The Times* did not publish reviews of such performances, the regularity with which such popular dramas continued to be advertised indicates that they gripped the public's imagination. The theatrical and fictional possibilities linked to the Bastille were unquestionably gathering momentum.<sup>7</sup> In contrast, the reaction in France to the Bastille and its capture was markedly different. With the capital's theatres mostly closed, the Revolution itself became the surrogate stage. Its actors were the *vainqueurs de la Bastille*, as they came to be known, and its audience were the commentators or those caught up in the turmoil.<sup>8</sup> The spectacles that had been found almost daily in the theatre, as in England, had dramatically moved onto the streets of Paris and such a transformation demanded the immediate imposition of 'serious drama on the world of mere *divertissement* (entertainment)'.<sup>9</sup>

Reports of events in Fauborg Saint-Antoine reaching England were often conflicting, sometimes already out of date, and often shrouded in mystery. In response to information that the prison had been demolished, employing Latude's *Memoir* as one authority, *The Times* confirmed that (because of the thickness of its walls) the Bastille remained standing 'as firm as ever'.<sup>10</sup> Despite such decisive reports on the physical site, one *Times* commentator suggested that much 'of the private intrigue of that dark abode will now probably be enveloped from the mystery which has always marked the proceedings of the Bastille'.<sup>11</sup> Over a hundred years later the historian Franz Funck-Brentano doubted that the legends which gave the Bastille 'so cruel a name are going to vanish into thin air, like the phantoms of an ancient château when light is let in'.<sup>12</sup> It was precisely this esoteric veil, shrouding the Bastille in mystery, that was to fascinate the public not only abroad, but in Paris itself.

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6 *The Times*, 20 July, 1789, p.2.

7 Prison literature such as that of Latude and Linguet had, long before the storming of the Bastille, been popular and widely circulated.

8 George Rudé, *The Crowd in the French Revolution* (Oxford: Clarendon Press, 1959), p.56.

9 Simon Schama, *Citizens - A Chronicle of the French Revolution* (London: Viking, 1989), p.382.

10 *The Times*, 22 July, 1789, p.3.

11 *The Times*, 21 July, 1789, p.2.

12 Franz Funck-Brentano, *Legends of the Bastille* (London: Downey, 1899), p.32.



While in England the best one could hope for was either coverage in newspapers or the almost immediate proliferation of dramatic performances, in France the Bastille itself became a spectacle not to be missed.<sup>13</sup> The wealth of contradictory reports on the fortress enabled it to become 'the most extraordinary place ever seen; the crowds from all parts of the country' coming to view it, 'even at the distance of 20 leagues'.<sup>14</sup> Despite the fact that it was 'so lately shunned as the terror of France' it was now 'the resort of numbers and what is extraordinary [...] [is] that they are not satisfied unless they get at the *inside*'.<sup>15</sup> Amidst such morbid fascination came a timely and prophetic reminder which foreshadowed Mill's comments on the iniquity of the lunacy laws:

You talk of the Bastile as a dreadful engine of tyranny, and in doing so you give it its true name; but you seem to forget that tyranny is not more lessened when exercised by the people, than when exercised by a King. The Bastile was a tyranny, not because people were confined there, but because they were confined against law, and were treated with a barbarity which, being exercised in private, could not answer the end of example, but must be the effect of private vengeance.<sup>16</sup>

This was certainly true of the lengthy imprisonment of Jean Danry, or as he was widely known, Henry de Latude.<sup>17</sup> Because of the extraordinarily powerful way in which the Bastille 'gave a shape and an image to all the vices against which the Revolution defined itself',<sup>18</sup> Latude's

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13 Besides the many commemorative engravings and paintings of the fall of the Bastille, a cottage industry evolved based on the production of pewter mugs, jugs, coffee cups, and additional artifacts; there were even models of the fortress carved out of masonry saved from the dismantling of the fortress in the weeks following its 'fall'. See Schama, *Citizens*, pp.417, 524.

14 *The Times*, 29 July, 1789, p.2.

15 *The Times*, 30 July, 1789, p.2.

16 *The Times*, 31 July, 1789, p.4.

17 Latude was a soldier who in desiring to advance himself devised a plan in which he would send both a letter bomb and a warning of it to Madame de Pompadour. His plot was uncovered and in 1750 he was incarcerated first in the Bastille and then in Vincennes. He escaped but was recaptured and returned to the Bastille. Using a rope ladder he once more escaped, but upon reaching Amsterdam, he was caught and again returned to the Bastille and then Vincennes. Learning of his plight, in 1775 a friend assisted in his removal to what Latude initially considered an institution far less brutal than Vincennes or the Bastille, Charenton Hospital for Lunatics. Though released in 1777, the publication of *Memoirs of Vengeance* insured an additional period of detention in the Bicêtre. In 1784, after twenty-eight years of imprisonment, Latude was finally set free. On the history of Latude, see Claude Quétel, *Escape from the Bastille - The Life and Legend of Latude*, trans. by Christopher Sharp (Cambridge: Polity, 1990), and Schama, *Citizens*, pp.394-399.

18 Schama, *Citizens*, p.408.



sensational and horrific account of his exploits and multiple escape attempts positioned his narrative as one of the most popular and enduring accounts of late-eighteenth century despotism. To his contemporaries, Latude was a perfect representative of the virtues demanded of a citizen. Considering the symbolic weight and successful metaphorical adaptation of the Bastille, it is unsurprising that Latude's account of his detention in Charenton has attracted less attention. Yet it is important in the context of this study because to Latude Charenton represented an even greater form of tyranny than the Bastille.

Latude likened Charenton to the 'new Tartarus'<sup>19</sup> or to the infernal regions of ancient Greek and Roman mythology. In contrast to the Bastille, where he had been unable to converse for years (except by his ingenious 'postal system') here he was able to converse with fellow inmates. In 'the first moments of my joy', he relates, 'I fancied myself free, because I was no longer in a subterranean cell where my groans were unheard, and an occasional glimmering of light only served to render distinct the horrors of my situation' (p.239). Yet it was not long before he

ascertained too plainly that I had only changed my punishment and my executioners, and that I was still in a prison. But why was I confined with lunatics? Was this another species of torture, invented by my cruel enemies to insult my miseries by degrading me in my own estimation - to deprive me of the only advantage I retained, the title and attributes of a man, by assimilating me to these unhappy wretches, who had lost the precious faculties of feeling and thinking? (pp.216-7)

To Latude's surprise, it became obvious that many of his fellow inmates were not raving lunatics. As he recounts in his *Memoir*, Charenton was also a place where 'there were others confined [...] by orders from the different Ministers, by *Lettres de Cachet*, and sometimes by the intercession of their own relatives' (p.223).<sup>20</sup>

Being declared insane was to Latude a fate worse than being branded a criminal. Though he could escape from Vincennes and the Bastille, extricating himself from the taint of madness proved to be much harder. His comments deserve to be quoted at length:

The establishment at Charenton, useful and necessary in some respects, was also, as my case will prove, one of the secret asylums where arbitrary power consigned its victims and consummated its detestable mysteries. Despotism was less cruel there than in the other state prisons, but its practice was more criminal. Elsewhere, the laws were disavowed, and never alluded to. The Ministers were known to be absolute, and hypocrisy was unnecessary. At Charenton it was different; every year, the forms at least of justice were carefully attended to. In the month of September, a committee from the Parliament of

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<sup>19</sup> *Memoirs of Henry Masers De Latude*, ed. by Monsieur Thierry, trans. by John William Calcraft (Dublin: W. F. Wakeman, 1834), p.215. Further page references are contained within the text.

<sup>20</sup> On the use of Charenton under the Old Regime as a prison for individuals seized under the *lettre de cachet*, see Goldstein, *Console*, pp.113, 197.



Paris visited the establishment, to hear the complaints of the prisoners. They listened to their remonstrances, dried their tears, and revived their hopes. But this imposing practice afforded little consolation to the innocent [...] this visit was a mere outward form, to sanction, in the eyes of the monarch and the people, the iniquities of the Ministers, and [...] it seldom produced any beneficial results. There was no instance of a person, confined on a *lettre de cachet*, obtaining redress from the laws through the medium of this mock tribunal [...] *still I remained a prisoner.* (pp.243-44)

Though Latude wrote in a sensational style, no doubt with the reading public in mind, his reasoned comments indicate that he was genuinely concerned by the lack of sufficient mechanisms in place by which to define insanity. Further, the particular iniquity of his own case was that he had committed no crime, had never actually been accused of one, and was in full possession of his mental faculties. It was the fact that he was sane and had been sent to the asylum on a *lettre de cachet* which neutralised the supposed effectiveness of the 'imposing practice' and prevented his early release from Charenton, the 'secret asylum'. It has often been suggested that the contents of 'prison literature' like those written by Latude and Linguet sacrificed realism to sensationalism.<sup>21</sup> To one, Latude's *Memoir* was merely 'the creature of his own unaided brain'.<sup>22</sup> Yet such criticisms did not lessen the popularity of such narratives. Rather, they served often to maintain as well as to further excite, in the popular imagination, a deepening fascination with the Bastille, and more generally, with tyrannical incarceration like that suffered by Latude while at Charenton.<sup>23</sup>

## ii. Panic madness - Carlyle and the storming of the Bastille

In 1834, at the Théâtre de la Gaîté in Paris, a melodrama entitled 'Latude, or, Thirty Five Years of Captivity', was performed (as a commemoration of the proclamation of the July Monarchy) to favourable reviews, especially from liberal critics.<sup>24</sup> Such a dedicatory performance and its literal and metaphorical appropriation of the Bastille contrasted to England's interpretation of and reaction to the infamous fortress. In 1837, Thomas Carlyle published his three-volume work, *The French Revolution*. Coloured to a great degree by his narrative, the English came to view the events of the 14th of July as an initiation into the violence that was to overwhelm the aspirations of the National Assembly. Though many rejoiced in the ascendancy of liberty over tyranny, they could not forget the indiscriminate bloodletting of 'sans-cullotism' as presented by Carlyle in his

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21 See, for example, Thomas Evans, *A Refutation of the Memoirs of the Bastille* (London: Printed for the Author, 1793).

22 Funck-Brentano, *Legends*, p.168.

23 The story of Latude's sensational exploits featured in *All the Year Round's* series, 'Old Stories Retold'. See 'La Tude's Escape from the Bastille', *All the Year Round*, 6 (1871), pp.373-380.

24 Quétel, *Escape*, p.191.



account of the storming of the Bastille. Nor could they ignore the narrative's implicit warning to the English aristocracy to heed the providential retribution witnessed on the other side of the English Channel.

Carlyle was clear on the origin of the French Revolution. There had been a massive dereliction of duty by the governing classes and their negation of responsibility led inevitably to an overhaul in the political and institutional framework of France. In reviewing Carlyle's *History* in the *London and Westminster Review* in July 1837, J. S. Mill explained Carlyle's theory. Those who had set out to regenerate France had 'failed in what it was impossible that anyone should succeed in: namely in attempting to found a government, to create a new order of society, a new set of institutions and habits, among a people having no convictions to base such order of things upon'.<sup>25</sup> As Thackeray put it in his review, published in *The Times* in August, the 'screaming hungry French mob' had merely battered down bastilles to erect guillotines.<sup>26</sup>

Carlyle's intention was to force his contemporaries to take a more profound view of their own condition - not by crude warnings of a revolution but by a deepening of their own historical imagination.<sup>27</sup> Though they differ in many respects, Carlyle's *French Revolution* was similar to Michelet's in that they both sought to throw light upon the role of the individual in the revolution, as opposed to an emphasis on larger and more impersonal social, political and economic institutions and structures. In this sense, Carlyle was following, albeit more independently, in the footsteps of Scott.<sup>28</sup> In Thackeray's words, Carlyle's history of the Revolution produced 'among the critics and the reading public a strange storm of applause and discontent'.<sup>29</sup>

Both Mill and Thackeray admired Carlyle's *History*. J.S. Mill was lavish with his praise: 'on the whole no work of greater genius, either historical or poetical, has been produced in this country for many years'.<sup>30</sup> Though pleased by Mill's comments, Carlyle was delighted by

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25 J. S. Mill's unsigned review of Carlyle's *History* appeared in the *London and Westminster Review*, July, 1837, pp.17-53. Cited in *Collected Works of John Stuart Mill*, 20, pp.133-166 (p.159).

26 William Makepeace Thackeray's unsigned review of Carlyle's *History* was published in *The Times*, 3 August 1837, p.6. Cited in *Thomas Carlyle - The Critical Heritage*, ed. by Jules Paul Seigel (London: Routledge & Kegan Paul, 1971) p.74.

27 Avrom Fleishman, *The English Historical Novel: Walter Scott to Virginia Woolf* (London: John Hopkins, 1971), p.116.

28 Andrew Sanders, "The French are always at it" - the Impact of the French Revolution on Nineteenth Century Literature, 1815-1870', in *The Impact of the French Revolution on European Consciousness*, ed. by H. T. Mason and W. Doyle (Gloucs.: Alan Sutton, 1989), pp.104-116 (p.110).

29 Thackeray cited in Seigel, p.69.

30 Mill cited in Seigel, p.52.



Thackeray's belief that his *History* 'possesses genius, if any book ever did'.<sup>31</sup> Yet both reviewers were conscious of the difficulty in assessing such an original work and the problems posed by its dramatic use of the present tense and its cacophony of voices, strategies which indicated Carlyle's doubt about the effectiveness of history itself to faithfully explain and convey the brutality of the Revolution. Thackeray saw in Carlyle's 'prose run mad' and in his 'wild vagaries of language' a prescient warning to proponents of English radicalism who might 'learn by it that there is something more necessary for him even than his mad liberty - the authority, namely, by which he retains his head on his shoulders'.<sup>32</sup> Yet he remained aware that others might view him as a 'dull madman' who had dispensed with 'common sense and reason'.<sup>33</sup> To Lady Sydney Morgan, writing in the *Athenaeum* in May 1837, his three volumes constituted 'misplaced persiflage and flippant pseudo-philosophy'.<sup>34</sup> Another contemporary reviewer, Herman Merivale, deplored Carlyle's 'bastard English' and declared that he had 'no title [as a historian] whatever'.<sup>35</sup> His work was nothing less than 'a set of lectures, very loosely collected, on striking personages'.<sup>36</sup>

Both historians and Carlyle's contemporaries have commented in particular on the metaphorical employment of elemental forces to convey the violence that attended the storming of the Bastille. The image of a raging tempest crashing against and destroying the menacing and tyrannical fortress was a common one.<sup>37</sup> Though clearly acknowledged by Thackeray, less attention has been paid to Carlyle's employment of madness in describing the events that took place on 14 July, 1789. While the 'Tophet-black aspect' (ii, p.353) of the Terror would be an arguably more appropriate site to employ the metaphor of madness, Carlyle perceived the destruction of the Bastille as representing more of the insane aspect of the *peuple* than the cold and calculated September Massacres in 1792. The last resort of the angry crowds in their search for

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31 Thackeray cited in Seigel, p.73.

32 Thackeray cited in Seigel, pp.71, 74.

33 Thackeray cited in Seigel, p.69.

34 Lady Sidney Morgan's unsigned review appeared in the *Athenaeum*, 20 May, 1837, pp.353-7. Cited in Seigel, p.47.

35 Herman Merivale's unsigned review appeared in the *Edinburgh Review*, July 1840, pp.411-45. Cited in Seigel, p.77, 80.

36 Merivale cited in Seigel, p.83.

37 On the use of this metaphor see Thomas Carlyle, *The French Revolution*, ed. by K.J. Fielding and David Sorenson, 2 vols (Oxford: Oxford University Press, 1989), i, pp.192, 200, 201, 204; Further page references to Carlyle's *History* are contained within the text. See also Jules Michelet, *History of the French Revolution*, ed. by K.J. Fielding and David Sorensen, trans. by Charles Cocks (London: University of Chicago Press, 1967), p.78.



arms in mid-July was the Bastille. It was believed, correctly, that the stores of gunpowder had been moved there. As they surged towards the fortress, as Carlyle would describe, the people's frenzied call for arms was 'like one great voice, as of a Demon yelling from the air: for all faces wax fire-eyed, all hearts burn up into madness' (i, p.184).

Carlyle's figurative use of madness reflects his characteristic desire for order and responsibility and his condemnation of a radicalism so chaotic and frenzied as to be itself destructive. On the one hand Carlyle was able to explain such a reaction from 'ye maddened sons of France' (i, p.193) by suggesting that it was inevitable; the crowds were merely desiring to free themselves and their fellow men from the 'chains and squalid stagnancy' (i, p.192) of monarchical order. Yet a more compelling suggestion was that the mad crowds could not but degenerate into chaos: 'This was the 13th day of July 1789; a worse day, many said, than the last 13th was, when only hail fell out of Heaven, not madness rose out of Tophet, ruining worse than crops'. On the 14th of July, 'Paris has wholly got to the acme of its frenzy; whirled, all ways, by panic madness [...] Blood flows; the ailment of new madness' (i, pp.200-201).

'Mad Paris' had 'abandoned altogether to itself' and 'madness ruled the world' (i, p.187) were typical phrases used by Carlyle in his account of the taking of the Bastille. Extending the necessarily devastating effects of such a retaliation, Carlyle set forth a relationship between the events taking place at the Bastille and Bedlam: 'For four hours now has the World-Bedlam roared: call it the World-Chimera, blowing fire!' (i, p.204) For Carlyle, the 'blaze of triumph' that followed the surrender of the Bastille by de Launay rested on 'a dark ground of terror: all outward, all inward things fallen into one general wreck of madness' (i, p.206). The death of the governor indicated to him that if 'Revenge is a "kind of justice", it is a "wild" kind! O mad sansculottism, hast thou risen, in thy mad darkness, in thy soot and rags' (i, p.216). A witness (though hardly impartial) to the events of that afternoon, Grace Dalrymple Elliot, concurred. She recorded in her journal that 'every sort of brutal excess was committed, and scenes of horror were occurring every hour [...] all those who were at the taking of the Bastille, were mad drunk, dragging dead bodies and heads and limbs about the streets by torch-light'.<sup>38</sup> The 'royalty of the mob',<sup>39</sup> was to replace the old monarchy and for Carlyle the flourishing of arbitrary rule was as dangerous as the *Lettre de cachet* that confined one in the Bastille. Though in the months following its capture the physical body of the Bastille was dismantled, its soul remained alive, 'living, perhaps still longer, in the memories of men' (i, p.219).

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38 Grace Dalrymple Elliot, *Journal of My Life during the French Revolution* (London: Richard Bentley, 1859), p.33.

39 Michelet, *History*, p.215.



iii. 'Shut out from the world' - *The Bastille abroad*

In *The French Revolution* Carlyle had been ambivalent about the Bastille. On the one hand it had long been a symbol of the despotic and corrupt French monarchy. The punishment meted out in the Bastille was to Michelet 'torture even for the spectator'. It 'wounded the souls of men, made them furious, *mad*, confounded every idea of justice, and subverted justice itself'.<sup>40</sup> On the other hand, the storming of the Bastille on the 14th of July positioned the Fortress as a symbol of liberty and as one of the most historically-important sites of emancipation from tyranny. Eighteenth-century accounts of incarceration and the histories written by Michelet and Carlyle, all served to construct and perpetuate a mythic and arguably more powerful version of the Bastille than that based on 'the General Principles of Law, Probability, and Truth' as offered by the solicitor Thomas Evans.<sup>41</sup> They passionately highlighted the injustice that was a necessary adjunct to imprisonment in the state prison and were to serve, in the nineteenth century, primarily as a means to symbolically and reverentially frame impassioned pleas for truth and justice.

Revolutionaries and political prisoners throughout this period drew heavily on this complex dual legacy. As an icon of *ancien régime* oppression the Bastille was employed to communicate to readers of their polemics the nature of such dreadful prisons as the Schlüsselburg in St. Petersburg, described by Vera Figner as the 'Russian bastille'. To Alexander Berkman, the anarchist who tried to assassinate Henry Clay Frick at the height of the Homestead Strike, the Western Penitentiary of Pennsylvania was a 'modern Bastille' where prisoners were condemned to a living death. More recently, political prisoners in India have used the Bastille to describe such prisons as Andamans.<sup>42</sup> By employing the Bastille to describe the terrible nature of unjust incarceration and while expressing their belief in the continued power of revolution to overthrow tyranny, the writings of political prisoners reflected vividly the duality of the Bastille metaphor. Their continued allegiance to triumphant, insurrectionary rebellion buttressed their appropriation of the Bastille both as a site of tyranny *and* emancipation.

In the United States during the Civil War, northern sympathisers with the South (called 'copper-heads' by their enemies) described the guardhouses where they were held as 'Bastilles'. Lincoln's opponents, led by copperhead Democrats, published a number of tracts which drew a direct analogy between the site of their incarceration and the Parisian prison. Such tracts were entitled, for example, *The Bastille in America, or Democratic Absolutism* (1861), *Secrets of the*

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<sup>40</sup> Michelet, *History*, p.204. My italics.

<sup>41</sup> Evans, *A Refutation*, p.1.

<sup>42</sup> See Bejoy Kumar Sinha, *In Andamans - The Indian Bastille* (New Delhi: People's Publishing House, 1988); Vera Figner, *Memoirs of a Revolutionist*, abridged trans. by Camilla C. Daniels (London: Martin Lawrence, 1929), p.193; Alexander Berkman, *Prison Memoirs of an Anarchist* (London: C.W. Daniel, 1926), p.121.



*American Bastille* (1863), and *Fourteen Months in American Bastilles* (1863). In 1792 Simon-Nicholas-Henri Linguet wrote that in the 'entire universe there has never been anything resembling the system of the Bastille. We can find no nation blighted by the shame and inhumanity of a permanent Bastille'. To Linguet, the prison was a 'purgatory, where the most trivial faults, and often innocence itself, maybe subjected arbitrarily to the torments of hell'.<sup>43</sup> One 'Eye Witness' to the horrors of the American guardhouses expressed similar sentiments, believing that those who had been incarcerated had been denied 'every process of law and shut out from the world in this Bastille. Verily "in the midst of life we are in death."' <sup>44</sup>

Though in *The French Revolution* Carlyle's fear of anarchic revolt suggests an ambivalent attitude towards the Bastille, in *Past and Present* (1842) he wholeheartedly situates the Bastille as a symbol of despotism. The riots and strikes that had taken place in England in the early 1840s, initially in the Midlands but soon extending North, were immediately interpreted as a resurgence of the Jacobin spirit of the late-eighteenth century. The Corn Law Amendment Act of 1834 had the effect of increasing disaffection amongst the unemployed and drew attention to the brutal treatment meted out in the newly established workhouses. Unsurprisingly, Carlyle was not slow to employ the phrases 'Poor Law Bastilles' or 'the workhouse Bastille'.<sup>45</sup> Though the rhetoric of opposition to the poor laws was both varied and complex, the Bastille, invoked to convey its horrors and more generally the despotic and unjust treatment meted out to England's pauper population under the guise of the Victorian poor-laws, was a constitutive element.<sup>46</sup>

In contrast to political prisoners, neither the copperhead soldiers nor agitators for the reform of the poor laws saw in the site of the Bastille a symbolic vision of insurrection and revolutionary liberation. Though critics of the iniquitous lunacy legislation wrote treatises deploring the lunacy laws, espousing reformist ideals, within such tracts they similarly appropriated the Bastille solely as a symbol of cruelty and oppression of a type characteristic of the

43 *Memoirs of the Bastille by Latude and Linguet*, trans. by J. and S. F. Mills (London: George Routledge & Sons, 1927), p.180.

44 *The Bastille in America, Or, Democratic Absolutism* by an Eye Witness (London: Robert Hardwicke, 1861), p.11. The publication of such a pamphlet in London was an attempt to influence British opinion in favour of the secessionist Confederacy.

45 Thomas Carlyle, *Past and Present*, ed. by Richard D. Altick (Cambridge, MA: The Riverside Press, 1965), p.7.

46 In its tending of the sick, its dietary regimes and physical environment, the Union Workhouse was to the narrator in Dickens's *Our Mutual Friend* (1865) more of a penal establishment than the County Jail, its horror dramatically evoked in the character of Betty Higden. See Charles Dickens, *Our Mutual Friend* (London: Penguin Books, 1997), pp.496-501. See also 'Peter Simple', *The Horrible Cruelty of the New Poor Law, or, A Scene in the Bath Union Bastille* (Bath: Sold by Miss Williams, 1837), and G.R. Wythen Baxter, *The Book of the Bastille* (London: [n.pub.], 1841).



*ancien régime*. Importantly, they too remained attached to only part of the powerful legacy of the Bastille.

*iv. The Bastilles of England - Nineteenth-century lunacy laws*

Immured in a wretched and comfortless prison-house, and left to linger out a lifetime of misery, without any rational attempt at treatment, without employment, without a glimpse of happiness, or a hope of liberation, [the lunatic] was terrified or starved into submission. Lashed, laughed at, despised, forgotten. The great objects were - confine, conceal.<sup>47</sup>

This scene, described by the Victorian physician W.A.F. Browne (1805-1885) in his 1837 tract *What Asylums Were, Are, and Ought to Be*, sought to capture all that was wrong with the treatment of lunatics during the decades preceding Pinel's liberation of the insane from their chains and manacles. It was a period that Browne describes as the 'reign of terror'. Pinel's act of emancipating the insane from the 'savage ferocity' of the past was quite simply a 'jubilee initiative of the reign of mercy', an act which was to Browne no less important than the 'exhumation [...] of the prisoners from the Bastille' (p.137).

Writing over thirty years later and on the other side of the Atlantic, the American physician Isaac Ray agreed with Browne on the significance of the revolution that had taken place in the care and treatment of the insane. The humane work undertaken by physicians and reformers (in this case Dorothea Dix) represented nothing less than 'the best fruits of that noble philanthropy, of that peculiarly Christian spirit and principle, which distinguish the social condition of our times'.<sup>48</sup> He believed, furthermore, that in an era when 'the law of kindness' was 'paramount to every other influence', the possibility of the sane being confined in lunatic asylums was a dangerous fallacy:

Of all the bugbears conjured up [...] to frighten grown people from the course pointed out by true science and true humanity, it would be hard to find one more destitute of real substance than the alleged practice of confining sane persons in hospitals for the insane.<sup>49</sup>

Browne also consigned wrongful incarceration to the past. The scenario of the sane being 'entrapped, imprisoned, and confined, in defiance of the most active interference made in their

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47 Browne, *What Asylums Were, Are, and Ought to Be*, p.101. Further page references are contained within the text.

48 Isaac Ray, "A Modern Lettre de Cachet" Reviewed', *Atlantic Monthly*, 22 (August 1868), pp.227-243 (p.242).

49 Ray, "A Modern Lettre de Cachet", p.240.



favour' (p.113) described a system which, 'at variance with common sense and justice' (p.131), had been eradicated in the face of the 'reign of humanity' initiated by Pinel and characterised by 'Christian benevolence' (p.139).

As the two physicians' comments make clear, it was a commonly held belief within medical circles that since the days when 'atrocities' were perpetrated in what Browne describes as 'Bastiles, deridingly called asylums', a revolution had taken place. As Browne's tract illustrates, the merest mention of the Bastille was enough to imprint on the imagination a vivid picture of the horrors of the past. However, his use of the Bastille metaphor was made more powerful due to its history as a site of emancipation. In contrast, victims of the lunacy laws in the nineteenth century challenged Browne's sanguine description of lunacy reform by presenting a very different picture of the humane and enlightened liberation of the insane. Investing the prison with symbolic meaning drawn directly from the associations and metaphors popularised by its eighteenth-century prisoners like Latude and Linguet, they employed the Bastille as a powerful symbol of brutality and arbitrary psychological cruelty. In their accounts of wrongful incarceration they return repeatedly to the *lettre de cachet*, the fear (captured by Linguet) of being buried alive, and the mysterious legends attached to the prison. Most importantly, it was the secrecy and illegality of their detention that united the Bastille with abuses represented as inherent in the legal system underpinning private asylum care.

Convicted or hardened prisoners wrote accounts of their lives and their experiences for a number of reasons, including financial gain, to warn would-be criminals of the potential outcome of their crimes, or to demonstrate the power of Christian redemption in confessional narratives. In contrast, those who were released after experiencing wrongful confinement or who escaped from lunatic asylums portrayed themselves as political prisoners, seeking to draw attention to the arbitrary and despotic nature of their unjust detention. The authors of such tracts condemned the system and the individuals which had led to their detention. Yet ever conscious of the taint of insanity, their tracts are marked by a notable absence of sentimentality and, like Latude's account of his incarceration in Charenton, offer constructive criticism of the lunacy laws and suggestions for their reform.

One of the more famous Victorian accounts of wrongful confinement in a lunatic asylum, *The Bastilles of England, or, the Lunacy Laws at Work*, was written in 1883 by Louisa Lowe. The daughter of a well-to-do landowner in Devon in 1842 she married the local Vicar, George Lowe. Though she appeared contented with married life, an apparently idyllic domestic existence was undermined by both personal and marital problems which had led to a period of hysterical mania and an unsuccessful suicide attempt. From the late 1860s, Lowe became increasingly interested in Modern Spiritualism and, especially, passive writing. In September 1870 Lowe made the formative



decision to leave her husband and their Anglican faith to pursue a life of independence.<sup>50</sup>

Throughout their marriage her husband had continually accused her of being insane, but it was her interest in spiritualism and her subsequent departure from the marital home which enabled him to commit Lowe to an asylum.

When she left in 1870 she stayed with a friend in Exeter. Followed by her husband and daughter, who begged her to return home, she remained adamant and called on the only friend she had in the area, a Dr Shapter. When later the same day she was called upon by Mr Arthur Kempe, a surgeon, who explained to her that he was visiting an old friend in the same lodging house, she became suspicious and left immediately, moving to a local hotel. Three days later she was accosted in the lobby and escorted against her will to Brislington Lodge, a private asylum run by a Dr Fox and his son Charles. The attending physician noted that she 'betrayed an indelicacy in her conversation, and a total absence of that womanly reserve and reticence upon her private affairs and sexual relations with her husband, which are usually observed'.<sup>51</sup> With all the physicians convinced that she had shown signs of sub-acute mania and a 'perversion of the moral sentiments' Lowe resigned herself to the realities of asylum care. On Valentine's day in 1871, after five months at Brislington Lodge, she was transferred to Lawn House, Henry Maudsley's private asylum in Hanwell.

Maudsley diagnosed Lowe as suffering from unsoundness of mind as a result of her monomaniacal belief in the authority of passive writing. As we have seen, by the 1870s the belief that spiritualism indicated insanity was firmly established within the psychiatric profession. To L. Forbes Winslow, it was 'one of the principle causes of the increase in insanity'.<sup>52</sup> Maudsley's diagnosis of religious monomania confirmed Winslow's belief that the religious groups contained 'a large number of weak-minded hysterical women, in whom the seeds of mental disorder, though for a time latent, are only waiting for new excitement to ripen into maturity'.<sup>53</sup>

Meanwhile, secure in the knowledge that Lowe was permanently established as a lunatic in an asylum, her husband began the legal process in the Chancery Court to gain access to her substantial income. An ill-judged move, it was to ultimately lead, after nine months in Lawn House, to her release. As soon as she was released she revived the defunct Alleged Lunatics' Friend Society and, after she had been officially declared sane in April 1872, she also became the Honorary

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50 Owen, *The Darkened Room*, p.171.

51 Quoted in Owen, *The Darkened Room*, p.180.

52 Lyttleton Stewart Forbes Winslow, *Spiritualistic Madness* (London: Ballière, Tindall, and Cox, 1877), p.19.

53 Winslow, *Spiritualistic Madness*, p.19.



Secretary of the Lunacy Law Reform Association.<sup>54</sup> Desiring even greater publicity for the cause she was now firmly supporting, she proceeded to give testimony in a legal action, initiated by herself, against the Commissioners in Lunacy. Her accusation was that they had failed adequately to prevent her wrongful confinement both in Brislington Lodge and in Lawn House. She questioned the legality of the procedures by which she had been committed. She was convinced that the certificate signed by Dr Shapter was misleading because it emphasised to an unacceptable degree her earlier bouts of hysterical mania.<sup>55</sup> She also argued that the committal procedures were incorrect and that her private correspondence had been illegally confiscated by the doctors.

In the first report heard before the Queen's Bench in late November 1872, a report charging the Commissioners with concurring in the improper detention of a 'False-Alleged Lunatic', her affidavit vividly recalled the abuses that she had suffered:

It is now many years since, in "Hard Cash," attention was called to the frightful facilities for abuse and corruption offered by our Lunacy Laws, and yet the evil continues unabated. Again does a warning voice sound; again it is a tale of the cruellest wrong laid before the country - this time told solely from the most bitter experience. God grant that it be told not in vain, but may arouse the English nation at least to demand efficient supervision and control of its lunatic asylums.<sup>56</sup>

Her action failed and it was not until 1877 that a second Select Committee was appointed to inquire into the lunacy laws 'so far as it regards the security afforded by it against violations of personal liberty'.<sup>57</sup> Six years later, Lowe published *The Bastilles of England*. Setting out to delineate the shortcomings of the lunacy laws and expose the abuses which it allowed, she began her tract with a vivid comparison: 'Few analogies can be more striking than those between our English houses licensed for lunatics, and the Bastilles of pre-revolutionized France, between the English medical certificates of lunacy with their concomitant order of incarceration, and the French *lettre de cachet*'.<sup>58</sup>

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<sup>54</sup> Owen, *The Darkened Room*, p.154.

<sup>55</sup> Louisa Lowe, "*Quis Custodiet Ipsos Custodes?: No. 1, Report of a Case Heard in Queen's Bench*, November 22, 1872 (London: J. Burns, 1872-3), p.8.

<sup>56</sup> Lowe, "*Quis Custodiet Ipsos Custodes?*" No. 1, p.2.

<sup>57</sup> Louisa Lowe, *The Bastilles of England, or, The Lunacy Laws at Work* (London: Crookenden, 1883), p.2.

<sup>58</sup> Lowe, *The Bastilles of England*, p.1.



v. *Lettres de Cachet*

The order on which Latude was confined in the Bastille was identical to the medical certificates that consigned Lowe to asylum care. In either scenario, she argued, ‘the individual is “deported and incarcerated” at the will of another private individual, by means of documents, of which he is allowed no cognizance, and which, as experience shows, are procurable by all who can pay for them’.<sup>59</sup> In both cases - the eighteenth-century *lettre de cachet* and the nineteenth-century legal procedure by which one was confined to an asylum on the grounds of lunacy - Lowe believed that ‘the individual is equally secluded from the world, deprived of all civil rights, and left absolutely, in all respects, at the mercy of his incarcerators, without other check than occasional official supervision’.<sup>60</sup>

As early as 1840 the issue of wrongful confinement in lunatic asylums had become sensational enough to be treated as a central theme by popular novelists. In 1840 Henry Cockton, for example, published *The Life and Adventures of Valentine Vox, the Ventriloquist*. Like Charles Reade’s *Hard Cash*, the novel sought to reveal the iniquitous operation of the lunacy laws, or, the ‘pernicious, the dreadful operation of which has been, if not vividly, truthfully portrayed, a system teeming with secret cruelties and horrors’.<sup>61</sup> In Cockton’s novel, the infamous *lettres de cachet* were transformed into ‘jolly mad-doctors, the majority of whom are to be bought for half a sovereign [...] [who] are called in to certify, [...] are paid to certify [...] [and] therefore do certify, and pocket the coin’.<sup>62</sup> If the public had doubted the novel’s truth, they could read newspaper coverage of trials which turned upon the contradictory evidence of medical experts.

Though the problem was that there existed no clear cut boundaries between the insane and the sane, this would have not been such an issue had not the young psychiatric profession positioned itself as an arbiter of mental health, declaring that only they were qualified to assess one’s mental state. As it appeared to the public, while one specialist confirmed the presence of insanity another would confidently, in the same case, deny the existence of any mental disorder whatsoever. In commenting on such a courtroom scenario, Lowe argued that one half of them could be no more than rogues, ‘men who, for the sake of their fees, deliberately commit perjury’.<sup>63</sup> Set

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<sup>59</sup> Lowe, *The Bastilles of England*, p.1.

<sup>60</sup> Lowe, *The Bastilles of England*, p.1.

<sup>61</sup> Cockton, *Valentine Vox*, p.v.

<sup>62</sup> Cockton, *Valentine Vox*, p.144.

<sup>63</sup> Lowe, *The Bastilles of England*, p.7.



against scandals involving the abuse of the lunacy laws by doctors themselves, Cockton's 'jolly mad-doctors' were perhaps not so overtly fictional as we might suppose.<sup>64</sup>

In 1838 Richard Paternoster had been committed to an asylum against his will. Ironically enough, his father was William Finch, the mad-house proprietor. Paternoster had become estranged from his family after a dispute over an inheritance. After his release on the grounds of sanity, like Lowe, he employed the *lettre de cachet* to capture the tyranny under which he had been incarcerated.<sup>65</sup> Like Pasternoster, the anonymous author ('a sane patient') of *My Experiences in a Lunatic Asylum* (1879) explained that he had read many 'tales and many histories which turn on the abuse of *lettres de cachet* in the famous ante-Revolutionary days'. The author challenged the reader to distinguish between then and the present day: 'Will any-body tell me the difference? It seems to me that all that could be done by their means can be done "under certificates" here and now, and legally justified afterwards over and over again'.<sup>66</sup> He described his narrative as a 'true story of the Bastilles of merrie England'.

It was the secrecy of the proceedings that linked the *lettre de cachet* with the lunacy laws. Lowe believed that many victims had been 'subject to the most abject personal slavery on false allegations of lunacy; in fact, condemned, [...] perhaps for life, to a doom often worse than a felon's without trial, or even knowing whereof they are accused'.<sup>67</sup> As one *Times* commentator noted in 1858, 'It is only to a madhouse, not to a prison, that an Englishman can be sent, and no one be the wiser'.<sup>68</sup> While secrecy naturally attended the committal of patients to private lunatic asylums, it was believed with classic Victorian propriety that on release or escape, one should maintain a dignified silence. As the 'sane patient' noted, his friends thought that in writing about his experiences in a lunatic asylum he 'should in some way be breaking a confidence which should be devoutly kept [...] that the secrets of the prison-house of lunacy should be as sacred as the mysteries of the Ceres of old'.<sup>69</sup> Many, apparently, *were* 'prevented from divulging "the secrets of the prisonhouse" by the irreparable social injury he would thereby inflict upon himself and his family'.<sup>70</sup> Like Rosina Bulwer-Lytton, Lowe believed that public awareness was the key to reform.

64 One recalls the damaging publicity received by John Conolly when he was forced to testify in the Lawrence Ruck case. See *The Times*, 24 August, 1858.

65 Peter McCandless, 'Liberty and Lunacy' in Scull, *Madhouses*, p.346.

66 'A Sane Patient', *My Experiences in a Lunatic Asylum* (London: Chatto and Windus, 1879), p.66.

67 Lowe, *The Bastilles of England*, p.3.

68 *The Times*, 24 August, 1858, p.6.

69 *My Experiences*, p.19.

70 *The Times*, 21 August, 1858, p.12.



In light of the ever-present possibility that the issue might, like so many other causes, be consigned to 'the limbo of oblivion', Lowe saw it as her duty to publicise the outrages and assist all those who had similarly been confined.<sup>71</sup>

The 'sane patient' whose liberty 'and very existence as an individual being, had been signed away behind my back' wanted his work to be perceived not as an 'onslaught on the medical men engaged in lunacy practice' but as 'an onslaught on a crying national sin, and all who favour it'.<sup>72</sup> In contrast, Lowe believed that a direct relationship existed between the innocent patient's liberty and the incarcerator in the guise of the physician or asylum superintendent. For many people it 'is the fashion to put their doctor on a pedestal and do him honour, as an African does to his medicine-man', but of the three learned professions, medicine produced the most criminals. Citing William Palmer she could without difficulty declare that to 'each of those murderers while they lived, the law confided absolute power to certify lunacy - to each now living, *ejusdem generis*, is the same power entrusted'.<sup>73</sup> These 'medical professionals', she argued, were

wholly unfit to be trusted with the meting out to their fellow men so awful a doom as deprivation of liberty on the ground of lunacy. For that such deprivation is an awful doom, one that society is only justified in inflicting for its own security, *and then only so far* as that security requires, no thoughtful person will deny.<sup>74</sup>

The capability, independence, and moral worth of asylum proprietors had been questioned for as long as the 'trade in lunacy' existed. These 'gaolers of the mind' as William Pargeter had called asylum proprietors as early as 1792, should be watched so as to prevent, or at least keep in check, the 'oppressive tyranny' of their 'receptacles of misery'.<sup>75</sup>

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71 Lowe, *The Bastilles of England*, p.3. Lowe assisted Georgina Weldon, another spiritualist who had been accused of insanity in the late 1870s. See Judith R. Walkowitz, *City of Dreadful Delight - Narratives of Sexual Danger in Late-Victorian London* (Chicago: University of Chicago Press, 1992), p.178. See also Brian Thompson, *A Monkey Among Crocodiles: The Disastrous Life of Mrs Georgina Weldon* (London: Harper Collins, 2000).

72 *My Experiences*, pp.40, 113.

73 Lowe, *The Bastilles of England*, p.6. William Palmer was a respected physician who was executed in 1856, convicted of one murder by poisoning (but widely believed to have poisoned up to fourteen individuals). See Dudley Barker, *Palmer - The Rugeley Poisoner* (London: Duckworth, 1935), and Boyle, *Black Swine*, pp.60-76.

74 Lowe, *The Bastilles of England*, p.7.

75 William Pargeter, *Observations on maniacal disorders* (Reading: for the Author, 1792), quoted in *Three Hundred Years of Psychiatry 1535-1860*, ed. by Richard A. Hunter and Ida Macalpine (London: Oxford University Press, 1964), p.542.



An early nineteenth-century physician, Robert Hull, declared that such men as those involved in the commercial element of private lunacy care were 'devoid of every requisite for this peculiar undertaking - without psychological tastes, without philanthropy, without erudition'.<sup>76</sup> 'A Lady', writing in the *Lancet* in 1840 similarly reflected that such 'men of education', would, for 'filthy lucre [...] prostrate their moral respectability [...] that they may wallow in luxurious comfort'.<sup>77</sup> Summing up such sentiments the 'sane patient' argued that when such physicians 'condescend to think a little less of their own feelings, and a little more of theirs whom they shut up, we shall be well on the road to amendment'.<sup>78</sup> After Mabel Etchell's lover's father had made advances upon her, he had her committed to Hygeria Lodge, a private asylum. In recounting her experience of wrongful confinement in *Ten Years in a Lunatic Asylum* (1868) to draw attention to the 'defective' machinery of the lunacy laws, she agreed that reform must begin with the asylum superintendant. Until 'moral excellence and intellectual perceptions are made indispensable qualifications for those who desire those onerous and responsible posts, no great reformation can be expected'.<sup>79</sup>

Under the influence of Richelieu, the 'Red Cardinal', the increasing arbitrariness of detention helped in no small degree to cement the perception that the French monarchy was one of the most despotic institutions in the world, and the *lettre de cachet* the most feared of its tools. In the nineteenth century, oppression and injustice, as it was perceived to be allied with the French monarchy, was appropriated by campaigners denigrating private asylum proprietors, physicians and conniving family members. In 1868 L. Clarke Davis published 'A Modern Lettre de Cachet' in the *Atlantic Monthly*. Like the accounts discussed above, Davis sought to expose the horrors of the lunatic asylum and condemn the 'monstrous' lunacy laws by drawing a direct analogy with the *lettre de cachet*. With the signature of the physician, the lunacy certificate 'springs into vitality with all the strength of that old *lettre* of France which, with like silence and secrecy, consigned its victim to the Bastille'.<sup>80</sup>

Like the *lettre de cachet*, the lunacy certificate removed the alleged lunatic from the 'wholesome air of the outer world, from the refined intercourse of society, from our dreams of art,

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76 Robert Hull, 'Essays on determination of blood to the head' (London: Churchill, 1842) quoted in Hunter and Macalpine, *Psychiatry*, p.905.

77 A Lady, 'Facts Connected with the Treatment of Insanity in St. Luke's Hospital', *Lancet*, (1840-41) ii, p.759.

78 *My Experiences*, p.112.

79 Mabel Etchell, *Ten Years in a Lunatic Asylum* (London: Simpkin, Marshall, 1868), p.86.

80 L. Clarke Davis, 'A Modern Lettre de Cachet', *Atlantic Monthly*, 22 (May 1868), pp.588-602 (p.590).



from our scheme of benevolence, or from our professional pursuits, to the lonely cell [...] of an asylum densely peopled with the insane'.<sup>81</sup> As institutions in which the 'walls are as high and strong, the keepers as vigilant and morose, the codes of law as absolute, the windows and doors as difficult to escape from, as those of any prison in the land',<sup>82</sup> lunatic asylums were to Davis nothing less than 'torture-houses', 'palace-like Bastiles' and 'charnel-houses for the mind'. It is clear that the *lettre de cachet* was considered analogous to the official process by which lunacy certificates committed the sane to lunatic asylums. The only difference, argued Lowe, was that 'the fearful power there [eighteenth century France] centred but in a very few hands, and those the highest in the State, is here confided to a numerous profession, entirely regardless of the moral or intellectual worth in the individuals that compose it'.<sup>83</sup>

#### vi. *Buried Alive*

In 1878 the *London Figaro* published an article on wrongful incarceration entitled 'Worse than Bastilles'. To the writer, the incarceration in lunatic asylums of the 'sane victims of lust, greed, fraud, or revenge' was 'worse than penal servitude. Worse than the Bastille. Worse than an agonising death!'<sup>84</sup> To anyone who had an enemy 'rich enough to pay for the wicked deed', the most 'infamous and accursed iniquity' of confinement to the 'awful living tomb' that was the private lunatic asylum was a distinct possibility. Just as the *lettre de cachet* was appropriated to symbolise the secrecy which attended illegal detention in lunatic asylums, so too was one of the most powerful legacies left by Linguet used to give meaning to the desperation or mental 'agony' that was felt by the wrongfully confined: the perception of being buried alive. It was even adopted by suffragettes, revolutionaries and political prisoners.<sup>85</sup>

In July 1858, the efforts of Rosina Bulwer-Lytton and her network of supporters was successful in securing newspaper interest in her case. In an article published after a compromise had

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81 Davis, 'Lettre', p.589.

82 Davis, 'Lettre', p.589.

83 Lowe, *The Bastilles of England*, p.52.

84 'Worse than Bastilles', *London Figaro*, 26 October, 1878, p.9.

85 In describing her incarceration in Holloway prison, Lady Constance Lytton explained that the sense of 'being buried alive was all but insufferable and might quickly drive one to the verge of insanity. See Constance Lytton and Jane Warton, *Prisons & Prisoners - Some Personal Experiences* (London: William Heinemann, 1914), p.67. Imprisoned in the Western Penitentiary in Pennsylvania, Alexander Berkman likened his incarceration to an 'agony of living death'. Berkman, p.123. Figner, too, thought that the interior of Schülessburg was like a 'tomb': 'The closed doors behind which prisoners were pining in loneliness, looked like a row of coffins standing upright'. Figner, pp.188-89.



been reached between Rosina and her husband, the *Daily Telegraph* reflected that Rosina had been excommunicated from her home, cut off from her family, and ‘buried in a social tomb’.<sup>86</sup> Mabel Etchell believed that she had been confined to ‘a living death’ and laments in her narrative how she had been cruelly deposited in ‘the sepulchre of a private mad-house’.<sup>87</sup> In one of many letters to the Commissioners in Lunacy, Louisa Lowe wrote that her life while incarcerated in Lawn House was a ‘hideous doom’. It was a ‘lingering death in life’ which was a ‘moral torture of incarceration’.<sup>88</sup> Clarissa Caldwell Lathrop vividly recounts in *A Secret Institution* (1890) the terrors of life, as a sane patient, in an American asylum. Her account of life within a ‘living tomb’ or that ‘horrible prison’, recalled the experiences of both Etchell and Lowe. As ‘completely shut away from the world as if I had never existed’, she was forced to endure ‘the horrors of a living grave, and the possible fate of a hopeless lunatic’.<sup>89</sup>

Such sentiments were echoed in popular fiction: ‘If you were to dig a grave for her in the nearest churchyard and bury her alive in it’, Doctor Mosgrave informs Robert Audley in *Lady Audley’s Secret* (1862), ‘you could not more safely shut her from the world and all worldly associations’.<sup>90</sup> In response to being told the destination of her trip, a Belgian asylum, Lady Audley declared to her arch enemy, ‘You have brought me to my grave, Mr. Audley [...] you have used your power basely and cruelly, and have brought me to a living grave’.<sup>91</sup> Upon Robert Audley’s departure from Villebrumeuse, Lady Audley icily noted that ‘law could pronounce no worse sentence than this, a life-long imprisonment in a mad-house’.<sup>92</sup> In *Valentine Vox*, Goodman and his friend are at a loss to explain why ‘a young creature like that - not yet arrived at womanhood, scarcely eighteen, should be buried within four walls, and not suffered to see a single soul save the wretch who casts her food into her den during the day, and chains her down to her

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86 *Daily Telegraph*, 15 July, 1858, p.4.

87 Etchell, pp.76-77.

88 Quoted in Owen, *The Darkened Room*, p.190.

89 Clarissa Caldwell Lathrop, *A Secret Institution* (New York: Bryant, 1890), pp.92, 121, 225, 169.

90 Mary Elizabeth Braddon, *Lady Audley’s Secret* (Oxford: Oxford University Press, 1987), p.381.

91 Braddon, *Lady Audley’s Secret*, p.391.

92 Braddon, *Lady Audley’s Secret*, p.394.



pallet at night'.<sup>93</sup> In Charles Reade's *Hard Cash*, Alfred Hardie could do nothing but lie as 'mute as death in his gloomy cell, a tomb within a living tomb'.<sup>94</sup>

'[W]e may state it as the conviction of those who stand above all prejudice', the *Daily Telegraph* continued, 'that the lunatic asylums of this country are frequently applied to the same uses as the Bastille, where the Man in the Iron Mask was immured for life and buried in secrecy because his pretensions were considered dangerous by claimants to estates and titles, or perpetrators of unrevealed crimes'.<sup>95</sup> The Bastille, the 'sane patient' suggested,

could scarcely hold its prisoners more closely than the "establishment" wherein I lived; and scarcely harder could it have been for any echo of complaint or suffering to reach the outer world. Buried and forgotten we lay there like dead men out of mind.<sup>96</sup>

To Jean Jaques Calet, a French Protestant who had been imprisoned in the Bastille for nearly twenty years, and who witnessed its storming in 1789, the Bastille was 'the Grave of liberty, the scandal of France' and 'the disgrace of Europe'.<sup>97</sup>

In *My Experiences in a Lunatic Asylum*, the narrator considers what might have been done to aid those, like himself, who were wrongfully confined in lunatic asylums.

it is not too much to say [...] that there are at this present moment languishing in these places many men who might well have been rescued, may even now (and a mob attack, Bastille fashion, upon the whole body of private asylums would, to my mind, do as much good as harm), - men who might well have been spared and saved to do good work in the world, but who now lie as helpless as the enchanter at the feet of Vivien in the hollow oak

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Lost to life and use, and name and fame.<sup>98</sup>

Our 'sane patient' did not believe that a 'mob attack, Bastille fashion' on private asylums would accomplish reform. Louisa Lowe agreed: 'were every licensed house in England closed to-morrow, and the system of inspection left untouched, abuses would soon be almost as ripe as they are

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93 Cockton, *Valentine Vox*, p.174.

94 Charles Reade, *Hard Cash* (London: Chatto and Windus, 1863), p.266. Further page references are contained within the text.

95 *Daily Telegraph*, 15 July, 1858, p.4.

96 *My Experiences*, pp.66-67.

97 Jean Jacques Calet, *A True and Minute Account of the Destruction of the Bastille* (Medford, MA: William Hunt, 1800), p.34. First published in 1789.

98 *My Experiences*, pp.17-18.



now'.<sup>99</sup> For it to be effective, reform could only take place at the level of the law. Only judges could compel asylum proprietors to accept patients that were a danger to themselves or others. 'It is not for me to suggest reform', the 'sane patient' continued, 'but for those who are paid to do that work rightly and earnestly, or who choose to undertake to legislate for us'.<sup>100</sup> While Lowe's warning was in earnest, his was tinged with irony. It was precisely because of the failure of the lunacy laws that men and women, like Merlin, were left to languish, buried alive in private asylums in nineteenth-century England. 'Significant proof', Lowe concludes, 'has now been adduced to justify the assertion that the English lunacy system is strictly analogous to that of the ancient Bastilles of France'.<sup>101</sup> Though like other nineteenth-century lunacy campaigners, in *The Bastilles of England* Lowe had appropriated only a part of the symbolic and metaphorical legacy of the Bastille.

In 1868 Isaac Ray penned a response to Davis's article entitled '*A Modern Lettre de Cachet Reviewed*'. Echoing the anxiety of physicians giving evidence at the 1859-60 Select Committee hearings and commenting on the Windham commission, Ray criticised Davis for exciting 'popular prejudices' against the medical profession and exacerbating suspicion of lunatic asylums. Ray wished to assuage public fear of the asylum and rejuvenate public opinion in favour of the physician. His strategy was to condemn outright the 'vocabulary of oppression and tyranny' which framed the 'spiteful effusions' of Davis. Ray believed that this vocabulary had been

ransacked for titles and epithets wherewith to render them [lunatic asylums] odious and unworthy of confidence. They are called "prisons," "Bastiles," "torture-houses," "breeders of insanity": their physicians are styled "jailers," [...] their inmates are called "prisoners," and their seclusion "imprisonment," "being buried alive".<sup>102</sup>

Beyond exciting a 'temporary sensation in the minds of over-credulous people, and all of those who are ever ready to believe that the fairest outside is a cloak for concealing some hideous evil beneath it',<sup>103</sup> Ray firmly believed that the institution and profession which he was defending would not be harmed by such language.

However the fact that renowned physicians like Ray, Bucknill and others responded so directly to the metaphors, images and associations contained in memoirs and newspaper accounts

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<sup>99</sup> Lowe, *The Bastilles of England*, p.118.

<sup>100</sup> *My Experiences*, p.6.

<sup>101</sup> Lowe, *The Bastilles of England*, p.52.

<sup>102</sup> Ray, "A Modern Lettre de Cachet" Reviewed', p.242.

<sup>103</sup> Ray, "A Modern Lettre de Cachet" Reviewed', p.242.



suggests a deepening awareness that such language was damaging not only the aspirations and stature of psychological physicians but also the social and medical authority of the profession of mental science.<sup>104</sup> By reasserting the symbolic relationship between the prison and the asylum, by turning to the legacy of the Bastille as a site of cruelty and secrecy, men and women like Lowe, Etchell and the 'sane patient' threatened the very principles underpinning the Victorian 'reign of humanity' and the 'reign of mercy' in the care and treatment of the insane. Countering official declarations of progress, reform, kindness and humanity, Victorians were left in no doubt that despite the best efforts of lunacy reformers, one of the 'great objects' of lunatic asylums remained to 'confine and conceal'. The anxiety this belief generated was reinforced by Charles Reade's *Hard Cash*. As the following chapter demonstrates, it was a novel which on its publication in 1863 became the object of deep consternation and criticism from the medical establishment.

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104 The way that the Bastille operated in debates about wrongful confinement in Victorian lunatic asylums is strikingly absent from what is otherwise a comprehensive account of the history of the symbol of the Parisian prison. See Hans-Jürgen Lüsebrink and Rolf Reichardt, *The Bastille: A History of a Symbol of Despotism and Freedom*, trans. by Norbert Schürer (Durham and London: Duke University Press, 1997).



## Chapter Seven

Charles Reade and Mary Elizabeth Braddon

As we have seen in the previous chapter, individuals who felt they had been wrongly incarcerated in lunatic asylums like Mabel Etchell wrote about their confinement experiences in order to enlighten their readers to the reality that lay behind the ‘costly building, the enchanted pleasure-grounds [...] and the well-dressed inmates’ of the private lunatic asylum. Far from perceiving the asylum as a site of care underpinned by humanity, and its physicians as personifications of enlightened benevolence, they sought to convey instead ‘the agony, the misery [...] and the mute despair’ that in truth characterised ‘those splendid homes of wretchedness’.<sup>1</sup>

Such narratives were condemned by their critics as dishonest and untrustworthy; unrealistic, they were considered to contain nothing more than ‘flippant errors’ whose sole purpose was to hoax a lay public and exacerbate unfounded anxiety. Compounded by the fact that the sanity of their authors was itself in question, individuals who sought to challenge the accomplishments espoused by proponents of the asylum were confronted with the problem of credibility. Discussion ensued centring on the most appropriate vehicle through which to convince the public of the veracity of their experiences. Whether ‘a plain statement of facts’ contained in a ‘didactic narrative’<sup>2</sup> was more effective than the employment of fiction to enlighten the reading public was disputed.

Responding to the question of why she did not use ‘the amenities of fiction on the facts of the asylum life’ Louisa Lowe concluded in *The Bastilles of England*, that if ‘my tale shares with the proverbial dulness [sic] of statistics, it will I trust also share their recognised value’. Lowe envisaged her tract as simply ‘a plain unvarnished account of facts, facts as I have seen them or known them to be.’<sup>3</sup> In contrast to authority accorded automatically to statistics (recall the *Lancet*’s reliance on ‘plain facts’ to dispute the apparent despotic power of physicians during the Nottidge trial), Lowe believed that there existed in the pages of a novel the capacity for imaginative disbelief. While Lowe viewed the novel as an inadequate site within which to communicate her didactic message (which was to abolish private asylums), Charles Reade felt conversely that fiction, especially sensation fiction, was an ideal vehicle through which to expose the horrors of wrongful confinement, the devious machinations of physicians and asylum superintendants and the ineffectual operation of the lunacy laws.

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<sup>1</sup> Etchell, *Ten Years in a Lunatic Asylum*, p.3.

<sup>2</sup> A Fastened Fellow, *A Man’s Adventure* (London: E.W. Allen, 1878), p.1.

<sup>3</sup> Lowe, *The Bastilles of England*, pp.119-20.



Despite the difficulties it entailed, the employment of a 'highly ornamented' fictional narrative to address a didactic moral question was to Reade as beneficial as it was problematic. In his Preface to *Hard Cash* he attempted to offset criticism by defending his decision to employ the genre of sensation fiction to examine the lunacy laws and illegal confinement. Though he felt that the 'slang term' of 'sensation novelist' was 'not quite accurate' as it was applied to his novels, he maintained that 'without sensation there can be no interest' (p.i) and it was precisely public 'interest' in the subject which he sought to secure. From its publication in serial form in Charles Dickens's *All the Year Round*, Reade's story was mired in controversy.

The anger expressed by the critics of *Hard Cash* centred on Reade's claim that his exposé of the horrors of wrongful confinement in lunatic asylums was founded on 'fact'. Unlike Lowe, who felt fiction would encourage imaginative disbelief in the reader, both Reade and his critics recognised the affective power of fiction to manipulate the opinions and beliefs of the reading public. More powerful than factual tracts and treatises in its ability to excite fear, Reade conceived of his novel as a productive alliance between fact and fiction. To his critics, *Hard Cash* was as inaccurate and untrue as it was 'illegitimate'. Unsurprisingly, the most vocal critics of Reade's novel were physicians and asylum superintendants. *Hard Cash* was to them nothing more than a 'libellous attack' and a 'terrible slander' on the medical profession. There were numerous grounds on which medical men could object to the novel: Reade had transparently parodied eminent physicians, overtly criticised the Commissioners in Lunacy, and laid bare the psychological and physical abuses still committed in lunatic asylums.

As this chapter will demonstrate, the responses to Reade's novel foreground a series of specific anxieties about the ability of textual forms to influence the public mind, the illegitimacy or legitimacy of the use of fiction in addressing social issues, and the proper responsibility of authors to their art and the reading public. The reception of the novel thus enables us to examine both Reade's treatment of wrongful incarceration in lunatic asylums and to consider wider concerns about the contested nature of the authority fiction possessed to influence a naive public. However, of most interest for this study is the way that physicians objected to the novel on the grounds that it represented a blatant contravention of established codes and conventions of both 'realism' and sensationalism.

This chapter is divided into three sections. The first section examines contemporary responses to sensation literature, exploring the construction of anxieties about the genre's dangerous influence on the reading public. While the sensation novel's treatment of class and gender was an acute source of concern, the novels' conflation of romance and realism was, as this section will demonstrate, equally perturbing to critics. Against this backdrop of cultural alarm at the effects of indulging in and being influenced by sensation fiction, the second section will consider Reade's *Hard Cash*. After examining the issues, apprehensions and debates which led to Reade's initial interest in lunacy law reform and his decision to write the novel, this section will



focus on the positive and negative reception of the novel, examining in particular a newspaper debate between Reade and a private asylum superintendant, J.S. Bushnan.

To demonstrate the literal dangers that *Hard Cash* posed to the health of society, Bushnan compared it to Mary Elizabeth Braddon's *Lady Audley's Secret* (1862), a novel whose influence he believed was far less dangerous than Reade's *Hard Cash*. Bearing in mind Dickens's criticisms of Wilkie Collins's 'Mad Monkton', the final section of this chapter will address Bushnan's comparison by considering the varying ways that Braddon and Reade, in their treatment of insanity and the asylum, conceive of their responsibility to their reader and their reader's responsibility to those afflicted with insanity.

#### *i. Prurient Prudes and the Strawberry Ices of Literature*

In his *Autobiography* (1883), Anthony Trollope remarked that a 'vast proportion of the teaching of the day, - greater probably than many of us acknowledge to ourselves, - comes from [novels]'.<sup>4</sup> There were many, like Trollope, who took a keen interest in observing and commenting upon the way in which novel-reading had been 'brought into society' during the nineteenth century.<sup>5</sup> Due to the flourishing of circulating libraries like Mudie's from the 1840s and the rise of railway stalls and their proffering of 'Yellow-backs' from the 1850s, the novel was read 'right and left, above stairs and below, in town houses and in country parsonages, by young countesses and by farmer's daughters, by old lawyers and by young students'.<sup>6</sup> Whether instructing young men in the charms of love or in educating young girls on what to expect from their friends and families, the novel had become according to Trollope *the* 'amusement of the time'. Margaret Oliphant (1828-97), on the other hand, believed that the sensation novel (what Lady Laura Ridding described as 'strawberry ices of literature'<sup>7</sup>) provided evidence that fiction had deteriorated from the sane, wholesome and clean family entertainment that it had been in the days of Walter Scott.<sup>8</sup> The novel had become, she felt, culturally deleterious to the health of the nation.

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4 Anthony Trollope, *An Autobiography*, 2 vols (Edinburgh: William Blackwood, 1883), II, p.32.

5 [Margaret Oliphant], 'Novels', *Blackwood's Edinburgh Magazine*, 102 (September 1867), pp.257-80 (p.258). On the history of the novel industry see Altick, *The English Common Reader*.

6 Trollope, *Autobiography*, II, p.31. In 1842, Charles Edward Mudie began to rent boxes of novels from his Bloomsbury residence. As Altick points out, it was not until he opened his New Oxford street headquarters that he came 'to full eminence'. See Altick, *The English Common Reader*, p.295.

7 Lady Laura Ridding, 'What Women Should Read?', *Woman at Home*, 5 (October 1896-September 1897), pp.29-32 (p.29).

8 [Oliphant], 'Novels', pp.257-58.



As a novel which to one critic sacrificed ‘everything to intensity of excitement’,<sup>9</sup> the serial publication in 1859 of Wilkie Collins’s *The Woman in White* in *All the Year Round* signalled the introduction to the literary marketplace of a distinctly new kind of novel. Unlike their gothic predecessors, the revelations of villainy and mystery in sensation novels like Mrs Henry Wood’s *East Lynne* (1861) and Mary Elizabeth Braddon’s *Lady Audley’s Secret* (1862)<sup>10</sup> were no longer located in musty dungeons, leaden coffins and ancient abbeys, but in country mansions, beautifully landscaped gardens and lawyer’s offices. Similarly, evil and dangerous protagonists took the form of beautiful young women, respected physicians and noble heirs to country estates. The immediate popularity of sensation novels lay partly in their topicality and their proximity to the real lives of their readers. As Henry James put it, in a thrilling manner sensation novels dramatically penetrated and exposed in their harshest light ‘those mysterious of mysteries, the mysteries which are at our front doors’.<sup>11</sup>

Not ‘slow to perceive that the columns of the daily papers were becoming formidable rivals to quiet novels’ (in part because of the lurid attention newspapers gave to crime<sup>12</sup>), the writers and publishers of sensation novelists responded by appropriating the commercial premises underpinning the flourishing newspaper industry and marketed their novels to take advantage of the recent changes in literary production and distribution. To the consternation of Oliphant, the sensation phenomenon undermined the hope that the abolition of ‘taxes on knowledge’ (newspaper

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9 Unsigned review, *Critic*, 25 August, 1860. Quoted in *Wilkie Collins: The Critical Heritage*, ed. by Norman Page (London and Boston: Routledge & Kegan Paul, 1974), p.82.

10 *East Lynne* was initially serialized in the *New Monthly Magazine* (edited then by William Harrison Ainsworth) from January 1861. That autumn it was published in three volumes by Bentley. The first installment of *Lady Audley’s Secret* was published in 1861 in *Robin Goodfellow*. When the magazine folded after only 13 issues, the story was reissued in 1862 in 12 installments in Ward & Lock’s *Sixpenny Magazine*. In October 1862 it was published in three volumes by the new firm of Tinsley Brothers. An immediate success, the profits enabled the elder of the two Tinsley brothers to purchase a new home which he named Audley Lodge. See Robert Lee Wolff, *Sensational Victorian: The Life and Fiction of Mary Elizabeth Braddon* (New York and London: Garland Publishing, Inc., 1979), p.5.

11 A writer in the *Daily News* wryly commented in 1862 that both the length and expense of the Windham trial were ‘tempting subjects to those who pander to that “sensation” mania which is scarcely less rife in London than in New York’. *Daily News*, 16 January, 1862, p.4.

12 ‘Sensation Novels’, *Medical Critic and Psychological Journal*, 3 (July 1863), pp.513-19 (p.514). The reporting of the widespread political agitation of the 1830s in newspapers both horrified and fascinated the reading public. Altick suggests that the decline of Chartism in the following decades posed a problem for newspaper editors: what would retain interest and so maintain readers? The solution, Altick argues, lay in their cashing in on the public’s interest in deviance and criminal activity following the establishment of police forces and new methods of criminal detection such as photography. See Richard D. Altick, *Victorian Studies in Scarlet* (London: J. M. Dent, 1972), p.44.



stamp tax and advertisement and paper duties) would give rise to improved reading tastes.<sup>13</sup> Founded on immoral and vice-ridden 'noxious topics', the widespread popularity of sensation novels (any novelist, James argued, who was able to interpret an 'illegitimate world to the legitimate world, commands from the nature of this position a certain popularity'<sup>14</sup>) seemed to their critics to substantiate fears that the very bastions of middle-class life were in the process of succumbing to an insidious corruption.<sup>15</sup>

It was this dire spectre, the fear that the taste for novel-reading might corrupt public virtue, which encouraged moralists into paroxysms of vigilance and strengthened their determination to 'supervise [public taste] with the most anxious and unceasing care'.<sup>16</sup> To critics like Henry Longueville Mansel (1820-71) and Oliphant, the increasing popularity of sensation literature was alarming. In comparison to gothic fiction's 'machinery of miracle [...] [which was] troublesome and expensive',<sup>17</sup> and in contrast to their Newgate, oriental and sentimental predecessors, bigamy, murder, deceit, arson, deviant sexuality and anti-social behaviour were presented in sensation novels as fundamental cornerstones of middle-class society and culture. Drawing attention to the dangers inherent in the sensation novel's fictitious manipulation of reality - their irreverent domestication of subversive and criminal acts and illicit behaviors - it was believed by critics that by fostering intense and uncontrollable emotional urges and affective impulses, they threatened the health not only the individual reader but of society itself:

Regarding these works merely as an efflorescence, as an eruption indicative of the health of the body in which they appear, the existence of an impure [...] crop of novels, and the fact they are easily read, are by no means favourable symptoms of the conditions of the body of society.<sup>18</sup>

In sensationalising the lurid underbelly of Victorian propriety, such novels made blatant 'appeal[s] to the imagination, through the active agency of the nerves', a phenomenon that was as startling as 'exceptional outrages of morality and custom'. They appealed 'to the nerves rather than

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13 Altick, *The English Common Reader*, p.356.

14 James, 'Mary Elizabeth Braddon', p.742.

15 Ann Cvetkovich, *Mixed Feelings - Feminism, Mass Culture, and Victorian Sensationalism* (New Brunswick, N.J.: Rutgers University Press, 1992), p.15.

16 W.R. Greg, 'False Morality of Lady Novelists', *National Review*, 8 (January - April 1859), pp.144-67 (p.145).

17 'Sensation Novels', *Blackwood's Edinburgh Magazine*, 91 (May 1862), pp.564-584 (p.566).

18 H. L. Mansel, 'Sensation Novels', *Quarterly Review*, 113 (April 1863), pp.481-514 (p.512).



to the heart' and promoted an 'intense appreciation of flesh and blood'.<sup>19</sup> Their affective influence was central to critics' exploration of the process by which such novels legitimised sensation. Seeking to make sense of the process by which such narratives constructed 'many thrills of feeling',<sup>20</sup> a metaphor of physical and intellectual consumption predominated. The sober-minded Oliphant believed that the readers of sensation fiction did 'not gulp down the evil in them for the sake of the abominable skill [...] or the splendor of the scenery [...] On the contrary, [they] swallow the poorest of literary drivel'.<sup>21</sup> An explanatory discourse evolved in which sensation novels were interpreted in terms of their addictive qualities; they were depicted as edible commodities, too delectable to be ignored yet disease-ridden and contagious.

Unlike '[h]istories, philosophies, political treatises [...] [which] are solid and often tough food, which requires laborious and slow mastication', novels were like 'soup or jelly; they may be drunk off at a draught or swallowed whole, certain of being easily and rapidly absorbed into the system'.<sup>22</sup> Critics of sensation novels were aghast at the consequences that would result from the infectious manner in which such 'mental food',<sup>23</sup> 'permeat[ed] and penetrat[ed]',<sup>24</sup> the body and the mind. In a review of Wilkie Collins's *Armada* (1866), the *Athenaeum*'s music critic Henry Fothergill Chorley (1808-72) ominously wrote that 'We are in a period of diseased invention, and the coming phase of it may be palsy'.<sup>25</sup> The metaphorically-diseased properties of the novels could not but hasten societal disaster: 'from an epidemic however, it has lately changed into an endemic. Its virus is spreading in all directions'.<sup>26</sup> In conflating the metaphor of physical and intellectual consumption with a medical language of mania, contagion and disease, the tenor of the criticism darkened considerably.

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19 [Oliphant], 'Novels', p.259.

20 [Oliphant], 'Novels', p.259.

21 [Oliphant], 'Novels', p.261.

22 Greg, 'False Morality of Lady-Novelists', p.146.

23 [Oliphant], 'Novels', p.259.

24 Greg, 'False Morality of Lady-Novelists', p.144.

25 H.F. Chorley, unsigned review, *Athenaeum*, 2 June 1866. Quoted in *Wilkie Collins: The Critical Heritage*, p.147. On Chorley's 'morbid dread of new opinions' and 'unscrupulous hostility to new knowledge' see Harriet Martineau, *Autobiography*, 2 vols (London: Virago Press, 1983), I, pp.421-22.

26 *Westminster Review*, 25 (July 1866), pp.269-70. Quoted in P. D. Edwards, *Some Mid-Victorian Thrillers: The Sensation Novel, Its Friends and Foes* (St. Lucia: University of Queensland Press, [1971]), pp.5-6.



The fact that sensation novels were read by inhabitants of the kitchen as well as the parlour and drawing room (where once, critics fondly recalled, the staples of reading had been didactic treatises, sermons and dignified histories) was alarming. This contagion destabilised traditional class distinctions. 'Thrills of feeling' were experienced by the inhabitants of kitchens and servant quarters, who had traditionally been fed on a diet of crude broadsides and penny-dreadfuls. Impressionable older women 'whose feelings are more easily aroused and whose estimates are more easily influenced than ours', and men 'of leisure' and 'business' were also enticed.<sup>27</sup> In her characteristically unrestrained manner, Oliphant thought that such 'feverish productions' had initiated a 'revolution in [...] domestic arrangements by making the parlour no longer a suitable environment for children'.<sup>28</sup> It was the effect of reading such fiction upon impressionable young women, though, that most concerned the moralists. Their lack of experience of the world afforded young women 'no criterion whereby to separate the true from the false in the delineations of life'.<sup>29</sup> In permeating and penetrating the entire Victorian household, in transcending class, gender and generational divisions, there was no question that the 'craving for sensation'<sup>30</sup> was a threatening spectre. W. Fraser Rae wrote in 1865 that

by a purely literary standard, these works must be designated as the least valuable among works of fiction. They glitter on the surface, but the substance is base metal. Hence it is that the impartial critic is compelled, as it were, to unite with the moralist in regarding them as mischievous in their tendency, and as one of the abominations of the age.<sup>31</sup>

The argument that sensation fiction provided a necessary recreational outlet from the demanding pressures of modern society was often appropriated by its defenders. What was a 'man to do' when the 'stimulus' provided by such novels was 'precisely what he wants?' a journalist asked. 'What is to be done when a book is sought as a distraction from anxious thoughts, and a [sic] something which will prevent the mind from feeding on itself?'<sup>32</sup> Wilkie Collins wrote in 1863 that 'there are few higher, better, or more profitable enjoyments in this world than reading a

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27 Greg, 'False Morality of Lady-Novelists', p.146.

28 [Oliphant], 'Novels', pp.275, 258.

29 Greg, 'False Morality of Lady-Novelists', p.146.

30 Mansel, 'Sensation Novels', p.505.

31 W. Fraser Rae, 'Sensation Novelists: Miss Braddon', *North British Review*, 43 n.s. 4 (September 1865), pp.180-205 (p.203).

32 *The Times*, 4 November, 1864, p.6.



good novel'.<sup>33</sup> Like George Augustus Sala, Collins took both moralists and literary critics to account for their condemnation of sensation literature. He pointed out that their desire to censure sensation novels ironically had the effect of heightening their appeal. In attempting to affix 'to our novels the stigma of being a species of contraband goods' the 'dull people' had helped the sensation novel to become a 'prohibited luxury'.<sup>34</sup> In a similar vein, Sala believed that the distinguishing characteristic of modern cant and criticism was 'prurient prudery',<sup>35</sup> a phrase appropriated from a pamphlet written by Reade in 1866 entitled *The Prurient Prude*.<sup>36</sup> The 'dolts and dullards and envious backbiters' had, Sala felt, blindly regarded as sensational anything that was 'vivid, and nervous, and forcible, and graphic, and true'.<sup>37</sup> The spectre of life without the invigorating qualities of sensation was a society populated by only the 'calmly dull, tranquilly inane, timorously decorous, [and] sweetly stupid'.<sup>38</sup>

Since the publication of Winifred Hughes's *The Maniac in the Cellar: Sensation Novels of the 1860s* in 1980, the narrative structures and devices, and the authors, readers and critics of sensation literature have been the focus of renewed critical inquiry. From their seemingly innocuous obsession with secret identities (which has been understood in relation to the production and manifestation of anxieties about the collapsing of class distinctions), to their physiological referents (interpreted in light of concerns about cultural degeneration and the onset of modernity), the genre of sensation fiction has in many respects been liberated from the virulent, moralistic condemnation of Victorian critics.<sup>39</sup>

Of particular interest to recent critics is the way that sensation novelists situated female protagonists as the arbiters of immorality and deviancy. The rhetorical discourses which encoded and created contemporary anxieties were often directed at the dominant role played by women in both the creation and consumption of sensation fiction. To their critics, the transgression of social

33 Wilkie Collins, 'A Petition to the Novel-Writers', *My Miscellanies*, 2 vols (London: Sampson, Low, 1863), I, p.89.

34 Collins, 'A Petition', I, pp.73, 72.

35 George Augustus Sala, 'The Cant of Modern Criticism', *Belgravia*, 4 (November 1867), pp.45-55 (p.53).

36 Reprinted in Charles Reade, *Readiana: Comments on Current Events* (London: Chatto and Windus, 1884), pp.314-319.

37 George Augustus Sala, 'On the "Sensational" in Literature and Art', *Belgravia*, 4 (February 1868), pp.449-458 (p.457).

38 Sala, "'Sensational" in Literature', p.458.

39 See Jonathan Loeb, 'The Ideology of Narrative Form in Sensation Fiction', *Representations*, 13 (1986), pp.115-138.



conventions and codes of behavior, and the explicit focus upon dangerous sexuality, fixed sensation novels in the province of the female and became a means to disavow them as inferior works of literature. Such claims have been undercut by recent critics who have drawn attention to the way in which sensation novelists challenged mid-Victorian domestic ideologies and subverted conventional stereotypes of masculine and feminine behavior and responsibility. Lyn Pykett, for example, has argued that the novels' 'unfixing' of the feminine and the consequent spectre of destabilisation to the established order that they manifested was a process that the writers of sensation fiction actively participated in and consciously responded to.<sup>40</sup> In *Disease, Desire and the Body: Victorian Women's Popular Novels* (1997) Pamela Gilbert has argued that the widespread concern over sensation fiction centred around its 'promiscuous exchange of intellectual and cultural materials' and was grounded in its conscious construction of gendered readers, authors, and texts.<sup>41</sup>

For this study, however, the most interesting of recent critical re-evaluations of the sensation genre are those that focus upon the novels' collapsing of the generically distinct categories of romance and realism. To Hughes, the sensation novelists' transgression of standards of realism and idealism was *the* distinguishing feature of the genre.<sup>42</sup> The disavowal of traditional representational strategies was as concerning to contemporary critics and observers as the treatment of class and gender. As Gilbert puts it, the importation of 'extraordinary events of romance into the ordinary reality of quotidian existence' was 'generic miscegenation of the worst kind'.<sup>43</sup> The way in which the novels violated the codes and literary conventions of both realism and romance generated considerable discussion about both the purpose of fiction and the effects it would produce upon the reading public. To Oliphant, the sensation novel's ability to influence behaviour and produce unhealthy and excitable tendencies, was problematic not least because it was 'attained by violent and illegitimate means as fantastic in themselves as they are contradictory to actual life'.<sup>44</sup>

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40 Lyn Pykett, *The 'Improper' Feminine: The Women's Sensation Novel and the New Woman Writing* (London: Routledge, 1992), p.10.

41 Gilbert, *Disease, Desire, and the Body*, p.3.

42 Winifred Hughes, *The Maniac in the Cellar: Sensation Novels of the 1860s* (Princeton: Princeton University Press, 1980), p.16.

43 Gilbert, *Disease, Desire, and the Body*, p.70. On the anxiety generated by the conflation of romance and realism see also Kate Flint, *The Woman Reader, 1837-1914* (Oxford: Clarendon Press, 1995), p.276.

44 'Sensation Novels', *Blackwood's*, p.565.



In an 1862 article on female sensation novelists in *Littell's Living Age*, the critic expresses similar anxieties about the illegitimacy of sensation fiction through its conflation of romance and realism:

we have thought it well to enter our protest against the form of fiction most popular in the present day, because we conceive it to fail both positively and negatively in the legitimate uses of fiction. Negatively, because it asks least from the sense, feeling and thought of the reader; and positively, because instead of quickening the imagination it stimulates a vulgar curiosity, weakens the established rules of right and wrong, touches, to say the least, upon things illicit, raises false and vain expectations, and draws a wholly false picture of life.<sup>45</sup>

Though staunchly critical of the majority of sensation novels, Oliphant reserved praise for Wilkie Collins's *The Woman in White*, arguing that there were no grounds on which she could 'object to the means by which he startles us and thrills his readers; everything is legitimate, natural, and possible'.<sup>46</sup> The legitimacy of the novel, Oliphant felt, lay in Collins's avoidance of murder, seduction and 'fantastic monsters' and 'startling eccentrics' in favour of constructing 'more delicate and subtle' (and so more powerful) thrills drawn from 'the simplest expedients of life'. Oliphant's praise of *The Woman in White* was thus underpinned by what she perceived as the distinction the novel maintained between inauthentic idealism and topical realism. David Masson, the Victorian biographer of Milton, similarly felt that, separately, both 'kinds of art were legitimate'. Yet not all critics maintained that the 'legitimacy' of fiction relied upon the separation of these categories. Trollope, for example, believed that such an opposition was mistaken, arguing rather that a 'good novel should be both, and both in the highest degree'.<sup>47</sup>

In her recent study of Victorian sensation and domestic violence, Marlene Tromp addresses the relationship between realism and sensation by examining Margaret Oliphant's *Salem Chapel* (1863). Oliphant's novel uses two intertwined plots (one a sensational story of attempted murder and the other a more sober and 'decorous' account of the novel's leading family, the Vincents) to depict the religious intolerance of a dissenting community. Focusing on Oliphant's use of language, madness and the woman's body, Tromp argues that the narrative's slippage between realism and sensation represents a form of disruptive 'interference' which resists the attempts of contemporary critics 'to maintain the safe dualities established in earlier fictional

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<sup>45</sup> 'Our Female Sensation Novelists', *Littell's Living Age*, p.369.

<sup>46</sup> 'Sensation Novels', *Blackwood's*, p.566.

<sup>47</sup> David Masson, *British Novelists and Their Styles: being a critical sketch of the history of British Prose Fiction* (1859), pp.248-51. Quoted in *The Early and Mid-Victorian Novel*, ed. by David Skilton (London: Routledge, 1993), pp.112, 138; Trollope, *An Autobiography*, II, p.42.



modes'.<sup>48</sup> In exploring the 'tenuous negotiation of the real and not real' Tromp argues that the construct of sensation contaminated both realism and the middle classes. While Tromp's scrutiny of the anxiety caused by the conflation of idealism and realism sheds important light on the way that marital violence was presented to Victorian readers, more significant is the way that she directly addresses the 'critical relationship between sensation and what was understood as reality'.<sup>49</sup>

As chapter four has demonstrated, Collins threatened the maintenance of shared interpretive systems. In deliberately upsetting the boundaries which he believed were defined by the spurious demands of sentimentality, Collins felt that he was providing an invaluable service to his readers: to represent the truths, however uncomfortable, about the human condition. Conversely, Dickens felt that by exacerbating anxiety and undercutting his philosophy of elevating the social condition, such a goal was repugnant. It was for this reason that he refused to publish the short story in *Household Words*. In his engagement with contemporary psychiatric discourse and frames of reference, Reade was considered, like Collins, irresponsible and his novel dangerous. The danger similarly lay in Reade's 'illegitimate' conflation of romance and realism and his use of the genre of sensation fiction to expose 'truths', in this case of the lunatic asylum and the lunacy laws. The writing, publication and reception of Charles Reade's *Hard Cash* thus acts as an important counterpoint to the challenges and problems posed by the writing and reception of 'Mad Monkton', specifically with regard to perceived responsibilities to both art and the reading public.

In the eyes of his critics, Reade's 'truths' about the existence of wrongful confinement were highly debatable if not downright false, and these critics disputed his claims to realism.<sup>50</sup> By describing the state's humane and enlightened practitioners of psychological medicine and its advanced institutional machinery for the care of the insane as merely façades which obscured the realities of illegal incarceration in lunatic asylums, Reade's novel caused outrage in medical circles. Through its encouragement of readers' suspicion (of physicians and treatments) and its exploitation of public anxiety and fear (of the asylum and its attendants), *Hard Cash* was perceived to hold the potential *literally* to hasten both individual and societal disaster by replacing the asylum with the Victorian household (and necessarily inexperienced and unskilled lay-attendants)

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48 Marlene Tromp, *The Private Rod: Marital Violence, Sensation, and the Law in Victorian Britain* (Charlottesville: University Press of Virginia, 2000), p.18.

49 Tromp, *The Private Rod*, p.71.

50 J.S. Bushnan angrily declared that 'any one (not a sensation writer) imagining that these checks and securities [surrounding the alleged lunatic] could be evaded [...] would himself be a fit subject for a commission "de lunatico inquirendo."' See 'Correspondance', Reade, *Hard Cash*, p.iv. A writer in the *Lancet* similarly felt that Reade's novel was simply a 'tissue of falsehoods'. *Lancet*, (1863) ii, p.604.



as the safest of sites in which to care for mentally ill relatives and friends. Even more than 'Mad Monkton', Reade's very conscious choice of genre and subject matter disrupted shared interpretive systems and threatened stable boundaries of emotional reception.

ii. 'Imaginative powers' and 'patient, laborious industry': *Charles Reade and Hard Cash*

The origins of *Hard Cash* lay partially in the case of a young man, Arthur Fletcher, who was committed to a private lunatic asylum by his late father's business partners after attempting to claim a £35,000 share of their business. He escaped. Charles Reade saw in such a sensational story an opportunity to expand his reformist predilections and lost no time in interviewing Fletcher, compiling what became known as his 'asyla' notebooks. Based on the transcripts of his interviews with Fletcher, between August and December 1858 Reade sent a series of letters to the press entitled 'Our Dark Places'.<sup>51</sup> The publicity Reade's letters received led to Fletcher's case being tried in court and in July 1859 Fletcher was declared sane and granted substantial damages.<sup>52</sup>

Notwithstanding the barrage of criticism that had recently been directed at private asylums and the widespread expressions of public discontent with the lunacy laws, in noting Reade's proposal to write a novel which would expose the gross abuses committed in private lunatic asylums, a writer in the *Lancet* was confident that Reade's 'clear good sense and powerful pen will insure full investigation'.<sup>53</sup> Reade's 'powerful pen' produced 'Very Hard Cash' which was serialised between March and December 1862 in Dickens's journal *All The Year Round*.<sup>54</sup> Despite its confident expectations, the *Lancet* was the first of many to passionately condemn Reade's 'illegitimate' and 'irresponsible' novel.

*Hard Cash* commences in dramatic fashion. After resisting storms, pirates, shipwrecks and an ambush by highway men, the sailor David Dodd returns to his family in England with his \$14,000 in 'hard cash' secure. He puts his savings in the bank owned by Richard Hardie. After discovering that this devious banker has stolen his savings, Dodd becomes insane and is committed to a public lunatic asylum. Meanwhile, Hardie's son, Alfred, has fallen in love with (and has proposed marriage to) Dodd's daughter, Julia. Alfred becomes suspicious of the events surrounding

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51 Reprinted in Reade, *Readiana*, pp.113-125. See also Altick, *The Presence of the Present*, pp.545-6, and Wayne Burns, *Charles Reade - A Study in Victorian Authorship* (New York: Bookman Associates, 1961), pp.203-4.

52 Burns, *Charles Reade*, p.203.

53 *Lancet*, (1858) ii, p.209.

54 Reade was first introduced to Dickens in 1859 through Edward Bulwer-Lytton. Coleman believes that their developing friendship led to Dickens commissioning Reade to write *Hard Cash*, offering him £800 for the serial rights to the novel. John Coleman, *Charles Reade as I knew Him* (London: Treherne & Company, 1903), pp.233-234.



Dodd's committal and threatens to expose his father's dishonesty. Whereupon his father secretly arranges to have him incarcerated in a private lunatic asylum (he is later transferred to two other asylums). Alfred's sudden disappearance shocks everyone. All except Julia believe that he has deserted her for another woman. While Alfred desperately but unsuccessfully attempts to prove his sanity and escape from the asylums, Julia's brother, Edward Dodd, addresses the family's dire financial straits by becoming a fireman. In sensational fashion, when the private lunatic asylum burns down Edward is on hand to assist in the rescue and escape of both David Dodd (who had been transferred there) and Alfred. Still mad, David Dodd departs from England, returning to his livelihood as a sailor.

After an heroic attempt to save another member of the crew from drowning, he is presumed dead. However, a distant cousin, a sailor on the same ship, recognises his tattoos and requests that Dodd be embalmed rather than buried at sea. In a dramatic twist of events, a fly bites Dodd and it is discovered that he is not dead but in a state of suspended animation. He recovers his sanity and returns to England to reclaim his stolen savings. In the meantime, Alfred has secured the love of Julia, received a first-class degree at Oxford, and with the help of an eccentric psychological physician, Dr Sampson, brings a suit for wrongful incarceration against his father and, by implication, the asylum proprietors. The novel concludes with the civil trial, the death of a ruined and ultimately repentant Richard Hardie, the safe return of David Dodd, the marriage of Julia and Alfred (three thousand pounds richer from the successful outcome of the suit), and the birth of numerous off-spring.

The phenomenon of the sensation novel drew the attention of literary critics (and sensation novelists themselves) to the complex relationship between realism and idealism as it was presented in fiction, foregrounding a debate about the legitimate and illegitimate use of fiction in drawing a 'picture of life'. Whether sensation novelists were faithful in their fictional representation of contemporary society or whether their novels were irresponsible in raising 'false and vain expectations' which posed dangers to 'the established rules of right and wrong' was a question which Dickens was forced to confront upon reading Collins's 'Mad Monkton'. It was a question which lay also at the heart of the controversial reception of *Hard Cash*. As Reade envisaged it, the novel was a platform to expose the abuses committed in private lunatic asylums, forcing readers to acknowledge the dangers of accepting at face value the humanitarian advances and enlightened treatments and practices lauded by Victorian psychological physicians. Reade lost no opportunity (both in *Hard Cash* and in the correspondance that the novel elicited) to insist that the novel be interpreted as a warning to readers to be on their guard:

Chained sane amongst the mad; on his [Alfred Hardie's] wedding day; expecting with tied hands the sinister acts of the soul-murderers who had the power to make a lie a truth! We can paint the body writhing vainly against its unjust bonds; but who can paint the loathing, agonized, soul in a mental situation so ghastly? [...] Pray think of it for



yourselves, men and women, if you have not sworn never to think over a novel. Think of it for your own sakes; Alfred's turn today, it may be yours tomorrow.(p.267)

Reade imbued the novel with myriad contemporary references. Pinel, Esquirol, the English statutes of lunacy, Commissions *de Lunatico Inquirendo*, the Commissioners in Lunacy, the method of non-restraint popularised by Conolly, monomania, the use of drugs such as opium and the processes of certification and treatment practices are all represented in great detail. There are striking parallels in *Hard Cash* to Henry Cockton's *The Life and Adventures of Valentine Vox, the Ventriloquist* (1840); not only in the subject matter of wrongful confinement but also in the way that both writers sought to warn readers about the Victorian lunatic asylum. Foreshadowing the anxieties that were central to critics' condemnation of sensation fiction in the 1860s, the character of Mr Goodman in *Valentine Vox* explains that before he himself had experienced illegal incarceration he had believed that the 'villainies' and 'monstrous proceedings' practiced in private lunatic asylums were 'mere fictions' created by 'diseased imaginations'.<sup>55</sup> Yet as Cockton explains in the Preface to the novel, the 'terrible subject' that he was treating fictitiously was grounded in reality: 'I have neither departed from facts nor exaggerated those facts in the smallest degree'.<sup>56</sup> Reade, too, argued that like *The Cloister and the Hearth* (1861) *Hard Cash* was a

matter of fact Romance; that is, a fiction built on truths; and these truths have been gathered by long, severe, systematic, labour, from a multitude of volumes, pamphlets, journals, reports, blue-books, manuscript narratives, letters, and living people, whom I have sought out, examined, and cross-examined, to get at the truth on each main topic I have striven to handle.(pp.i-ii)

As with Cockton and *Valentine Vox*, Reade's lengthy testament to the authenticity of his novel indicates that was no 'diseased invention' created by a 'diseased imagination'.

The 'smoldering passion'(p.284) and violent jealousy of Edith Archbold the asylum proprietor, and her predatory sexual advances on Alfred Hardie were obvious grounds on which to criticise the novel for legitimising morally unacceptable behaviors and emotions. Yet Reade's treatment of female sexuality was nowhere remarked upon in the reviews.<sup>57</sup> Instead, it was his exposé of the iniquities practised in the lunatic asylum that drew the most virulent condemnation from literary critics and physicians. Scholars of Victorian culture may not fully realise how readily psychological physicians reviewed contemporary literature. To John Charles Bucknill writing in the *Asylum Journal of Mental Science*, Tennyson's *Maud* (1855) was quite simply the 'history of a

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55 Cockton, *Valentine Vox*, p.108.

56 Cockton, *Valentine Vox*, p.vii.

57 See, for example, review of *Hard Cash* in *Athenaeum*, 1863 (July-December), pp.875-6.



madman depicted by the hands of a master'.<sup>58</sup> Yet when it came to commenting upon the fictitious treatment of physicians and their institutions, as in *Hard Cash*, gracious praise was replaced with impassioned and defensive anger. Reade's 'wholesale attack of a profession which includes within its ranks many of the most distinguished philanthropists of the age' was no more than 'the Quixotic imaginings of his own brain'.<sup>59</sup> All the *British Medical Journal* could say was 'that if he believes what he writes about mad-doctors, he shows that he is utterly ignorant of the subject he is dealing with [...] [he] has not hesitated, for the sake of a trade-trick, and in the way of business, to asperse most shamefully the conduct of highly honourable men'.<sup>60</sup>

Reade's scarcely disguised use of John Conolly as a model for the character of Dr Wycherley was among the first topics to be criticised. Internationally renowned for introducing a regime based on non-restraint while an attendant physician at Hanwell Lunatic Asylum in Middlesex, Conolly had played a prominent role in completing the reforms set in motion by the Tukes in York and by Pinel in Paris. After leaving Hanwell, Conolly accepted numerous requests to testify in famous lunacy commissions and in medico-legal trials.<sup>61</sup> His position as an eminent Victorian alienist suffered as a result of his notorious involvement in several cases of wrongful incarceration in the late 1850s including, as we have seen, that of Lawrence Ruck and Rosina Bulwer-Lytton. Conolly was an easy target for Reade.

As John Sutherland notes, in the character of Wycherley, Reade makes numerous references to Conolly, especially regarding his involvement in the case of Ruck.<sup>62</sup> Reade's allusions to the theories of insanity and the ameliorative treatment methods espoused in Conolly's well-known treatises, *An Inquiry concerning the Indications of Insanity* (1830), and *The Treatment of the Insane without Mechanical Restraint* (1856), were not lost on Thomas Harrington Tuke, Conolly's son-in-law and himself a physician (who had testified at the Windham inquiry). He believed that the character of Wycherley was an intentionally hostile portrait of Conolly. Discovering letters from Dickens to Harrington Tuke, Richard Hunter and Ida Macalpine have demonstrated that though Dickens and Conolly never appear to have met, they were on close terms.<sup>63</sup> In the face of

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58 *JMS*, 2 (October 1855), p.96. See also Bucknill's 'Macbeth: A Psychological Study', *JMS*, 4 (1857-58), pp.477-507.

59 *Lancet*, (1863) ii, p.604.

60 *BMJ*, (1863), ii, p.583.

61 Smith, *Trial by Medicine*, p.70.

62 Sutherland, *Victorian Fiction*, p.84.

63 See Richard A. Hunter and Ida Macalpine, 'Dickens and Conolly - An Embarrassed Editor's Disclaimer', *The Times Literary Supplement*, 11 August, 1961, pp.534-535 (p.534).



Harrington Tuke's plea to Dickens to remonstrate with the author of *Hard Cash*, Dickens' loyalties were divided. As his article on lunatic asylums in *Household Words* in 1852 indicates, Dickens admired Conolly for the effort he had made to improve asylum conditions.<sup>64</sup> Dickens equally respected Reade and had even written to Wills on 30 September 1862 asking him to congratulate him on the 'admirable art' and 'surprising grace and vigour' of his novel.<sup>65</sup>

In the first of three letters to Harrington Tuke, written on October 12 1863 (three weeks after Dickens wrote to Wills), Dickens wrote that he was unsure whether Harrington Tuke's apparent request that he set up a meeting with Reade to discuss his ill-disguised portrait of Conolly was a good idea. Mindful of Harrington Tuke's concern, when Reade's attentions turned to the 'timidity of champions' (p.334), the Commissioners in Lunacy, Dickens attempted to exonerate himself from criticism by inserting a note to an issue in which Reade parodied the eminent physician and commissioner in lunacy, Samuel Gaskell: 'The conductor of this journal desires to take this opportunity of expressing his personal belief that no public servants do their duty with greater ability, humanity, and intelligence than the Commissioners in Lunacy'.<sup>66</sup> Despite his public criticism of Reade's portrayal of the commissioners in lunacy, in private he continued to defend Reade.

In the second letter to Harrington Tuke, written on 15 November 1863, Dickens returned to Reade's portrait of Conolly: 'I cannot imagine Mr Reade had the least knowledge of what you tell me concerning Conolly. I am strongly impressed with the belief that it *must* be a wonderful coincidence [...] I cannot believe that he would wilfully be personal and cruel'.<sup>67</sup> Increasingly exasperated by his own conspicuous role in the embarrassing débâcle, Dickens wrote for a third time to Harrington Tuke (on 2 December 1863) explaining that he intended to separate himself 'from these statements and opinions, and distinctly to assure the public (as an act of plain justice) that they are not mine'.<sup>68</sup> On December 26, 1863, a forthright disclaimer came attached to the concluding number of the serial:

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64 See [Henry Morley], 'The Treatment of the Insane', *Household Words*, 5 (March-September 1862), pp.270-273.

65 Hunter and Macalpine, 'Dickens and Conolly', p.535.

66 'Very Hard Cash', *All the Year Round*, 10 (August 1863 - February, 1864), p.265. To Walter Phillips, the explanation for Dickens's note (which made 'no secret of his disapproval of views that Reade expressed') lay in the fact that his good friend, John Forster, was a member of the Lunacy Commission. See Walter C. Phillips, *Dickens, Reade and Collins. Sensation Novelists. A Study in the Conditions and Theories of Novel-Writing in Victorian England* (New York: Columbia University Press, 1919), p.114.

67 Hunter and Macalpine, 'Dickens and Conolly', p.534.

68 Hunter and Macalpine, 'Dickens and Conolly', p.534.



NOTE: THE STATEMENTS AND OPINIONS OF THIS JOURNAL GENERALLY, ARE, OF COURSE, TO BE RECEIVED AS THE STATEMENTS AND OPINIONS OF ITS CONDUCTOR. BUT THIS IS NOT SO, IN THE CASE OF A WORK OF FICTION FIRST PUBLISHED IN THESE PAGES AS A SERIAL STORY, WITH THE NAME OF AN EMINENT WRITER ATTACHED TO IT. WHEN ONE OF MY LITERARY BROTHERS DOES ME THE HONOUR TO UNDERTAKE SUCH A TASK, I HOLD THAT HE EXECUTES IT ON HIS OWN PERSONAL RESPONSIBILITY, AND FOR THE SUSTAINMENT OF HIS OWN REPUTATION: AND I DO NOT CONSIDER MYSELF AT LIBERTY TO EXERCISE THAT CONTROL OVER HIS TEXT WHICH I CLAIM AS TO OTHER CONTRIBUTIONS.<sup>69</sup>

Notwithstanding Dickens's efforts to deflect criticism onto Reade, the *Lancet* felt that Reade was 'not a fair subject for criticism'.<sup>70</sup> The *British Medical Journal* similarly asked 'for no apology from Mr. Reade', because he was 'manifestly a sensation-novel writer'.<sup>71</sup> It was impossible to directly condemn Reade's treatment of physicians. Had the journals' done so, they would be open to the suggestion that the illegal incarceration of the sane represented a degree of fact and this was something they vehemently denied. Instead, they focused on Dickens, a larger and more important target. The *Lancet*, for example, was forthright in objecting to

the appearance of such calumnies in a journal which Chas. Dickens conducts [...] It is absurd to suppose that such grave abuses as those Mr. Reade details would have escaped the criticism of Mr. Charles Dickens or of others if they had any real existence; and we are pained to see a tissue of falsehoods in any degree endorsed by his name appearing at the head of the sheet.<sup>72</sup>

In a particularly bitter and personal attack, the *British Medical Journal* also directed criticism at the role of Dickens:

With regard to Mr. Charles Dickens, however, we must say, that there is for him no excuse [...] with all his wit, [he] has ever shown a want of wisdom or ballast - signs of a defective education, perhaps [...] Mr. Dickens' journal has done a good deal more than slander Lunacy Commissioners; it has cast diabolical charges upon the character of all medical men.<sup>73</sup>

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69 'Very Hard Cash', *All the Year Round*, 10 (August 1863- February 1864), p.419.

70 *Lancet*, (1863) ii, p.604.

71 *BMJ*, (1863), ii, p.583.

72 *Lancet*, (1863) ii, p.604.

73 *BMJ*, (1863), ii, p.583.



Reade had his supporters. Wilkie Collins's sole comments were 'Bravo, Bravo, Bravo!'<sup>74</sup> Swinburne also praised the 'literary tact and skill' with which Reade had highlighted the 'villainous lunacy of the law regarding lunatics [...] In the power of realizing and vivifying what he could only have known by research or report, Reade is second only to Defoe'.<sup>75</sup> Reade's assertion of the novel's realism and 'truth' provoked criticism in equal measure. Once again, Dickens was partly responsible. As the *British Medical Journal* acknowledged, Dickens was renowned for 'occasionally telling truths through his fictions, and of reforming evils by publishing them in the form of romance'.<sup>76</sup> In the eyes of his critics, the monthly serialisation of his friend's novel had been irresponsible. He should have known that there were 'plenty of persons ready enough to believe that his [Reade's] statements are true and real expressions of actual facts known to him'.<sup>77</sup> Reade, too, should have known that 'the slightest whisper, founded in truth, of any of the abominations recorded as facts [...] would be indignantly echoed from one end of the kingdom to the other, and the gravest investigation demanded'.<sup>78</sup> This was, in fact, exactly what he wished for.

An argument between J.S. Bushnan (the proprietor of Laverstock House Lunatic Asylum in Salisbury) and Reade in the letter columns of the *Daily News* in late October 1863 centred on the words, images and associations which Reade used to expose the continued existence of wrongful incarceration. Bushnan expressed his outrage at the potential effects of *Hard Cash* on the public mind by contrasting Reade's novel with Elizabeth Braddon's *Lady Audley's Secret*. When it was published in 1862 Braddon's novel had been criticised for its 'strong' tendency to confuse vice and

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74 Letter from Collins to Reade, 31 March, 1863. Pierpont Morgan manuscript collection, MA 80 RV-Autographs, Misc. - English.

75 Algernon Charles Swinburne, *Miscellanies* (New York: Worthington Company, 1886), pp.774-775. A reviewer of Reade's fiction in *Blackwood's* felt that the faults of *Hard Cash* ('moving his readers outside the lawful limits of art; casting probability to the winds and riding wildly over all the laws of circumstance') were 'lost in the brilliancy of his power'. He was nothing less than a 'genius'. 'Charles Reade's Novels', *Blackwood's Edinburgh Magazine*, 106 (July-December, 1869), pp.488-514 (pp.489-90).

76 *BMJ*, (1863), ii, p.584.

77 *BMJ*, (1863), ii, p.585. Dickens was increasingly hesitant to publish stories that would be condemned on moral grounds. After the unfortunate attention he received on publishing *Hard Cash*, he later refused to publish Reade's *Griffith Gaunt* because of its open portrayal of bigamy. It was subsequently published in the *Argosy* from January to November, 1866. See Andrew Blake, *Reading Victorian Fiction: The Cultural Context and Ideological Context of the Nineteenth-Century Novel* (London: Macmillan, 1989), p.77.

78 *BMJ*, (1863), ii, p.584.



virtue and to ‘unsettle the fundamental notions of morality’.<sup>79</sup> As one reviewer put it, the ‘artistic faults of this novel are as grave as the ethical ones. Combined, they render it one of the most noxious books of modern times’.<sup>80</sup> Yet Bushnan believed that the ‘thrills of terror’ that penetrated the ‘public mind’ upon reading *Hard Cash* were far more dangerous in their literal effects than the thrills of terror produced by reading a novel in which a house is set on fire and a ‘superfluous’ husband is pushed into a well by a deviant heroine.

Bushnan argued that Braddon’s ‘highly seasoned dish’ would amusingly warn readers against sitting on the edges of wells and having ‘any but fireproof libraries’. He did not believe that *Lady Audley’s Secret* could be read in any *literal* way as a ‘warning to the reader’ against the temptations of confusing virtue and vice. In contrast, the ‘thrills of terror’ produced by Reade’s novel were far more dangerous because they were underpinned by the spectre that

any man may, at any moment, be consigned to a fate which to a sane man may be worse than death, and that not by the act of any of our Lady Audley’s, or other interesting criminals, but as part of a regular and organized system, in all compliance with the laws of the land.<sup>81</sup>

Reade’s fictional presentation of the illegal incarceration of sane individuals in lunatic asylums was condemned by Bushnan as a ‘terrible slander’ and portrayed events which were simply ‘not possible’. Reade made a forceful public defence of his claims about asylums. In a letter to the same paper in October 1863 he expressed his irritation at Bushnan’s attempt to ‘lull the public back into the false sense of security from which [*Hard Cash* was] calculated to rouse them’.<sup>82</sup> After the serial publication of *Hard Cash*, Reade explained that he had received numerous letters and petitions from families and friends asking him to assist in the release of individuals wrongfully or illegally incarcerated in lunatic asylums.<sup>83</sup> This response, and his private researches, vindicated the application of his ‘imaginative powers’ and ‘patient, laborious industry’. ‘[U]nder existing

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79 ‘Baits for Suicide - “Lady Audley’s Secret” and “Aurora Floyd”’, *Medical Critic and Psychological Journal*, 4 (October 1863), pp.585-604 (p.594).

80 Rae, ‘Sensation Novelists’, p.187.

81 ‘Correspondance’, Reade, *Hard Cash*, p.iii.

82 ‘Correspondance’, Reade, *Hard Cash*, p.v.

83 See, for example, the description of one letter sent by a lunatic to Reade in Digby, *Madness, Morality and Medicine*, p.196.



arrangements any English man or woman may without much difficulty be incarcerated in a private lunatic asylum when not deprived of reason'.<sup>84</sup>

Bushnan's anxiety was matched by that of a reviewer in *The Times*, who feared that the 'incautious' reader would 'imagine mad doctors to be scientific scoundrels, lunatic asylums to be a refined sort of Tophet, and the commissioners in lunacy and visiting justices to be a flock of sheep. This is the untruthful exaggeration of fact jumbled with fiction'. The fundamental problem with the novel was Reade's 'too sure a reliance on the artistic value of fact'.<sup>85</sup> Warning him that 'he ought to use fact with moderation' the reviewer continued:

Eccentric fact makes improbable fiction, and improbable fiction is not impressive [...] that he will lead people to inquire into the truth of his views is also likely enough; but he would probably produce a still more powerful effect if he treated fiction as fiction, and reserved his facts for a more sober and direct appeal to the public.<sup>86</sup>

*The Times* reviewer believed that Reade had committed an 'artistic error' in choosing the genre of sensation fiction to 'expose quack medicine',<sup>87</sup> and to hold up 'to the execration of mankind [the] invented brutalities of mad-doctors and abominations committed in mad-houses'.<sup>88</sup>

Reade knew exactly what he was doing by employing the genre of sensation fiction to expose the horror of wrongful confinement. Through the vehicle of fiction his message would reach a wider audience than if it had been stated in a more 'sober and direct appeal' to the public. He also knew that he might ironically benefit from the frenzied criticism, a valid form of publicity, that sensation novels regularly received. In one sense, Reade appeared to ally himself with sensation novelists like Braddon and Collins; in another sense the reception of the novel makes clear that he also sought to subvert the efforts of sensation novelists to present the extraordinary as typical. Extending the genre's range of representation he consciously tried to present as truthful what to many seemed improbable. The defence of sensation to explore truths had always been an explicit strategy for Reade. As the narrator of *The Autobiography of a Thief* (1858) explains:

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<sup>84</sup> 'Correspondance', Reade, *Hard Cash*, pp.x-xi.

<sup>85</sup> *The Times*, 2 January, 1864, p.6. The reviewer in *Blackwood's* was in the minority in defending Reade by arguing that fiction held as much right as fact to treat 'every spot on which men struggle and suffer'.

<sup>86</sup> *The Times*, 2 January, 1864, p.6.

<sup>87</sup> *The Times*, 2 January, 1864, p.6.

<sup>88</sup> *BMJ*, (1863), ii, p.584.



I feign probabilities; I record improbabilities: the former are conjectures, the latter truths: mixed they make a thing not so true as Gospel nor so false as History: viz., Fiction.  
When I startle you most, think twice before you disbelieve me.<sup>89</sup>

While Reade conceived of his exposure of the ‘monstrous enactments’ and ‘mad statutes’ (‘Facility, Obscurity, and Impurity’) which insured the ‘frequent detention of sane but moneyed men’ (p.330) as fact important for Victorians to know about, his critics considered his depiction of wrongful confinement as both illegitimate, untruthful and harmful to both the health of the reader and the health of society itself.<sup>90</sup>

### iii. Responsibility

When J.S. Bushnan denied the truth of *Hard Cash* and condemned Reade’s irresponsibility to his readers he did so through a comparison with Mary Elizabeth Braddon’s *Lady Audley’s Secret*. Considering his criticism of Reade’s portrayal of the world of lunacy, Bushnan’s disregard of Braddon’s treatment of the world of the asylum and lunacy in *Lady Audley’s Secret* is surprising. This last section will examine Braddon’s novelistic treatment of madness in three texts: a novel, *The Trail of the Serpent* (1861), a short story, ‘The Mystery at Fernwood’, published in *Temple Bar* also in 1861, and an article published in *Belgravia* in 1867 entitled ‘An Adventurous Investigation’. Collectively, they demonstrate a sophisticated engagement with nineteenth-century law, psychiatric practice and lunatic asylums, and position Braddon, like Reade, as a sharp delineator not only of mid-nineteenth century society and its contradictory cultural values but also of the complex relationship between reason and unreason as it was both understood and misunderstood by the Victorians.

In an article entitled ‘Mad Folk’ in *Belgravia* in 1869, the writer offers a powerful incentive for instruction on the subject of insanity:

No one can be indifferent to it who considers his own liability to become insane in this crowded and jostling age, where men tread so closely upon each other’s heels, and where

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<sup>89</sup> Charles Reade, *Autobiography of a Thief, and, Jack of All Trades, a matter-of-fact-Romance* (London: Chatto & Windus, 1903), p.1.

<sup>90</sup> Apparently it was also harmful to *All the Year Round*, reducing circulation by 3000 copies. See Charles L. Reade and the Rev. Compton Reade, *Charles Reade: A Memoir*, 2 vols (London: Chapman and Hall, 1887), I, p.151. John Coleman also felt in ‘assailing the infamies, the cruelties, and the horrors of the madhouse system’ Reade’s novel proved a ‘sad disappointment’ resulting in its premature conclusion. See Coleman, p.234.



every nerve-fibre is at its highest tension, and the social wheels are made to revolve at the most terrific speed.<sup>91</sup>

Yet how the reading public should be enlightened on the subject of insanity was contested by writers of fiction like Braddon and Reade. Unlike Reade, Braddon felt that the sensation novel was an inappropriate site within which to educate the public about what she described as ‘the night-side of things’. More appropriate, she felt, were short stories and articles, both of which were better suited to didactic instruction. Maintaining that the codes, conventions and purposes of prose fiction were unsuited to the communication of an explicitly moral message, Braddon understood her responsibility to her readers, and to her art, in a very different way than Reade.

As he recounted in one of his notebooks, Reade thought that Braddon was ‘[i]ndustrious, self-denying, gentle, affectionate, talented, and utterly unassuming, a devoted daughter, loving mother, and kindly stepmother’. When he published *The Wandering Heir* in late 1872, he dedicated it to Braddon as a ‘slight mark of respect for her private virtues and public talents’.<sup>92</sup> Despite being ‘intimate friends’, the two writers felt differently about the relationship between their artistic endeavours and ‘real’ life. Never adverse to discussing his own novels, Reade explained that he wrote for a public who were gripped with ‘the great tragi-comedy of humanity that is around and about them’.<sup>93</sup> Far from pious, Reade assumed that his readers were interested in an ‘aristocratic divorce suit, the last great social scandal, a sensational suicide [...] a woman murdered in Seven Dials, or a baby found strangled in a bonnet-box at Piccadilly Circus’.<sup>94</sup>

After Braddon’s death in 1915, a tribute to the novelist was published in *The Times* by a ‘Lady who knew Miss Braddon well’. The anonymous author mused on Braddon’s aversion to the imaginative possibilities contained in newspaper stories and concluded that she never took ‘a “real life” plot as her theme. To do so, according to her old-fashioned notions of rectitude, would have been dishonourable, as well as unfaithful to the creative spirit’.<sup>95</sup> Braddon’s son held a rather different opinion of his mother’s industrious output. ‘Instead of lingering in the past she moved forward with her times and was always well abreast of the age. Her novels, except her six historical novels, might all be taken as faithful pictures of contemporary life’.<sup>96</sup> Such was the ambiguity

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91 ‘Mad Folk’, *Belgravia*, 10 (December 1869), pp.206-212 (p.206).

92 Quoted in Malcolm Elwin, *Charles Reade - A Biography* (London: Jonathan Cape, 1931), p.266.

93 Coleman, p.263.

94 Coleman, p.263.

95 ‘An Appreciation’, *The Times*, 5 February, 1915, p.11.

96 W.B. Maxwell, *Time Gathered* (London: Hutchinson, 1937), p.269.



surrounding the origin of the 'creative spirit' that made Braddon so famous and her novels so popular.

Braddon undertook her first paid literary endeavour as a young woman. For £10 she was asked by a local Yorkshire squire and self-confessed admirer, John Gilby to write a short novel that combined 'the human interest and genial humour of Dickens with the plot weaving of G.W.M. Reynolds'.<sup>97</sup> Published as *Three Times Dead, or the Secret of the Heath*, it was not an immediate success. On her return to London she met and fell in love with an Irish publisher, John Maxwell, who republished *Three Times Dead* in 1861 under the new title, *The Trail of the Serpent*. As Braddon wrote many years later, 'Death stalked in ghastliest form, across my pages; and villainy reigned triumphant till Nemesis of the last chapter. I wrote with all the freedom of one who feared not the face of a critic [...] People buy it, and read it, and its faults and follies are forgiven'.<sup>98</sup> It became an immediate bestseller. As Maxwell mentioned in one of only three surviving letters to Braddon: 'One thousand copies of "The Trail of the Serpent" sold in *seven days*. Pleasant news!'<sup>99</sup>

After wrongfully accused of murdering his wealthy uncle, Montague Harding, Richard Marwood's only option (for he appears by all evidence to be guilty) is to employ the insanity defence. As a result he is committed to a lunatic asylum. After languishing there for eight years, his friends (led by an amateur detective) trace the true murderer, Jabez North. Marwood is thus exonerated both from the taint of madness and from the accusation of murdering his uncle. Like the murder itself, the novel was 'something out of the common'.<sup>100</sup>

Following the dramatic courtroom scenes, Braddon introduces the reader <sup>to</sup> the lunatic asylum in which Marwood is confined. Braddon's employment of the insanity defence and her manipulation of concerns about illegal incarceration represent an intricate engagement with contemporary psychiatric practice.<sup>101</sup> However, though Marwood's gloomy despondency, 'the blackness of a despair far more terrible than the most terrible death' (p.151) is reinforced through contrast with his fellow inmates, horror of the asylum and of ill-treatment is not evoked in the way that it is in Reade's *Hard Cash*. Helen Small has suggestively argued that the employment of

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97 Braddon quoted in Wolff, p.81.

98 Quoted in Wolff, pp.113-14.

99 Quoted in Wolff, p.99.

100 Mary Elizabeth Braddon, *The Trail of the Serpent* (London: Simpkin, Marshall, Hamilton, Kent, 1866), p.35. Further page references are contained within the text.

101 Though Elaine Showalter argues that Lady Audley's 'real secret is that she is sane, and moreover, representative', I believe that Showalter's interpretation of Lady Audley's 'latent insanity' overlooks Braddon's intricate engagement with nineteenth-century theories of partial insanity. See Elaine Showalter, *A Literature of Their Own: British Women Novelists from Brontë to Lessing* (London: Virago, 1991), p.167.



'literary' images and words in psychiatric literature presents us with a means to locate the boundaries of their self-proclaimed authority and provides us with an insight into the limited nature of their claim to scientific autonomy.<sup>102</sup> In contrast to her sensation novels, Braddon's negotiation of popular conceptions of insanity and its treatment in her short stories and articles extends her authority as a serious social commentator, as reformist in her aspirations as Reade considered himself to be.

In 1861 the editor of *Temple Bar*, George Augustus Sala, published a short story by Braddon entitled 'The Mystery at Fernwood'. The narrator is a young woman, Bella, who had recently become the fiancée of Laurence Wendale, the sole heir of an estate in Yorkshire, Fernwood. The 'great mystery'<sup>103</sup> she exposes centres on the discovery that the invalid Mr Thomas, who had resided in utter seclusion at Fernwood throughout his life, was Wendale's twin brother, a raving lunatic who, at the conclusion of the story, murders Lawrence Wendale. Playing upon popular conceptions of insanity as she had in *The Trail of the Serpent*, more striking are the affinities with Charlotte Brontë's *Jane Eyre* (1847). Though there are no direct references to Bertha Mason, the similarities are significant both in terms of plot and style: the reader is given hints and clues that slowly strip away the mystery and reveal the truth. Like Mason, Thomas is concealed in the upper wing of a stately home. Both lunatics, sources of shame to their families, remain concealed but carefully looked after in the family home. Just as Jane Eyre encounters Bertha Mason for the first time late at night and alone, so does Bella meet Thomas, the 'horrible shadow, the dreadful being [...] with a harsh dissonant laugh' (III, p.563).

When she awakes after fainting at the sight of Thomas, the 'horrible double' of Lawrence, Bella is not convinced by Lucy's explanation that she had simply experienced a delusion common to 'people of an extremely sensitive temperament' (IV, p.64). A doctor is called in to cure Bella's 'mental ills, and regulate [...] [her] feverish pulse' (IV, p.64). He declares that Bella is suffering from a case of 'hysteria, optical delusions, false impressions of outward objects [...] and other semi-mental, semi-physical infirmities' (IV, p.65). Braddon was exploring a displacement tactic that she had used with even greater skill in *Lady Audley's Secret*.

In the inquest that followed the murder 'every effort was made to hush up the terrible story' (IV, p.73) and confine the 'irremediable affliction' to the knowledge of family members. Thomas was transferred to the county lunatic asylum. Braddon's moral was clear: lunacy must be treated in the proper environment, the lunatic asylum. In both stories and articles on the subject of insanity published in *Belgravia* throughout the 1860s and early 1870s the treatment of lunacy remained a concern of Braddon's. In 1867, a short story entitled 'An Adventurous Investigation'

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102 Small, 'In the guise of science', p.47.

103 Mary Elizabeth Braddon, 'The Mystery at Fernwood', *Temple Bar*, 3 (September 1861), p.552-563, and 4 (March 1862), pp.63-74. 3, p.552. Further page references are contained within the text.



appeared in her journal which again centred madness and its treatment. The story relates the observations of two friends as they travel through the fictional Tripedal Island (amusingly identified as the home of the maniac whose screams scare Allan Armadale in Wilkie Collins's *Armadale*) investigating 'the entire aspect and condition of lunacy'.

They represent different attitudes towards lunacy. The narrator's friend, Smith, was fearful for his personal safety. He believed that 'exploring the ins and outs of this island, and hunting up the lunatics by night and by day' (p.57) was itself a 'mad thing' (p.57). Recommending that his friend arm himself with revolvers and double his life insurance policy, Smith suddenly departs. In contrast, the narrator wanted to investigate the treatment of lunacy and to

stir up the public interest to provide remedies for it; to alleviate the misery and neglect of such poor unfortunates; to, if possible, ultimately create for them a proper and commodious asylum, instead of leaving them as now, to the tender mercies of avaricious relatives, or the brutal treatment of untaught and ignorant "friends."<sup>104</sup>

The narrator immediately realises that the problem in assessing the state of lunacy on the island was twofold. Firstly, there was a lack of reliable statistical information on insanity. Secondly, 'many otherwise intelligent islanders could not distinguish between a lunatic and an eccentric person' (p.62). He believes this was 'attributable almost wholly to ignorance' (p.62). Through 'apathy or forgetfulness [...] poor demented creatures lay fastened up in cow-houses, stables, or private rooms, as unthought of by the outside world as if they had no existence' (pp.62-63). Even more concerning to the narrator was the possibility that 'sane' people might be 'confined (for selfish purposes), and the case either remained unknown or escaped active investigation' (p.63).

In one scene the narrator learns of a proposal to construct a lunatic asylum on the island. He concludes that the majority of the islanders considered such a project unnecessary. 'I do not think the feeling was one of apathy or disregard to human suffering; but the FACTS were imperfectly known to them, owing to a system (or total absence of system) which had so long prevailed' (p.66). The narrator continually returns to the problem of complacency, reminding the reader that lunacy was an affliction which demanded to be taken seriously. He uses the case of one young woman called Kate who had been betrayed and deserted by her lover to illustrate the importance of his investigation. The 'deadhead', as Kate was known, was confined by her relatives in a padlocked stable. She is found by the narrator curled up under a blanket in semi-darkness and wearing only a chemise. 'She lay like an animal on the unclean straw, utterly deserted save by her feeders, and the evidences of repulsiveness - not further to be described - were plainly visible' (p.72). When her aunt is asked who lifted her out of bed, she replies, '*there's a man that*

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<sup>104</sup> 'An Adventurous Investigation', *Belgravia*, 1 (February 1867), pp.55-72 (pp.57-58). Further page references are contained within the text.



*comes in and looks after her!*' (p.72). The implication is not lost on the reader. The narrator concludes his account with an appeal, imploring readers to take his description of the situation on Tripedal Island seriously. He reminds them of their close proximity not only to the island itself but to the affliction of insanity:

Reader, you have the particulars of poor Kate's lunacy and treatment, - the very recent condition of an afflicted defenseless woman [...] is not half-a-day's travel and sail from *Belgravia*! [...] To alleviate the sad condition of these unfortunates, the hand of private charity might be extended. (p.72)<sup>105</sup>

Such an article was sensational only in that it described in shocking detail the circumstances in which lunatics were found to be living on the fictional Tripedal Island. Its purpose, in a journal like *Belgravia*, was to rouse readers into action, to encourage them to open not just their purses but their minds. Braddon sought to educate the readers of *Belgravia* by vividly illustrating the dangers inherent in ignoring or concealing the spectre of insanity. Concerned that the effective treatment and understanding of insanity was undercut by public misconceptions (based on fear or ignorance), the article, like 'The Mystery at Fernwood', suggests that Braddon's instructive aims were similar to Reade's. It was important, she felt, that her readers be enlightened to the existence of the 'night-side' of things.<sup>106</sup> By this she meant to lay 'bare our social scourges both of the moral and the material kind, in order that we may with one heart and mind unite in striving to rectify those evils which madden people and hurry nations to premature decay'.<sup>107</sup>

Of particular concern to defenders of asylum care was <sup>the</sup> way in which rhetoric operated to excite in the 'public mind' particular sentiments, emotions and associations and images. For example, physicians expressed anger at the way that Erskine's 'masterly rhetoric' had insured Hadfield's acquittal. Similarly, though Isaac Ray believed that the 'vocabulary of oppression and tyranny' would in no way threaten the profession of mental science, the attention he paid to the use of such a vocabulary betrayed a real concern at the ease with which newspapers influenced the public. When novelists chose to examine psychological issues they too were open to criticism from the medical establishment. This chapter has demonstrated the varied ways in which Reade and Braddon sought to educate their readers about madness and its treatment. While Reade's protest against wrongful confinement was deliberately grounded in the conflation of the genres of romance

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105 While the description of Kate and her environment is reminiscent of the young girl (also forsaken by her lover) found by Goodman and Whitely in the asylum stables in Cockton's *Valentine Vox*, the appeal recalls Dickens's plea to the readers of *Household Words* after his visit to Saint Luke's Asylum in 1851.

106 'Insanity and its Treatment', *Belgravia*, 10 (February 1870), pp.467-478 (p.478).

107 'Insanity and its Treatment', *Belgravia*, 10, p.478.



and realism, Braddon maintained a distinction between her educative and 'serious' articles and her sensational novels and stories.

Though her short stories and articles consciously sought to arouse sympathy and elicit compassion for the plight of the insane, her 'highly ornamented' novels reinforced popular misconceptions about insanity and its treatment. Unlike Reade's *Hard Cash*, Braddon's literary treatment of insanity was not challenged by physicians and asylum superintendants. In examining the problems that underpinned the literary mediation of a set of specific anxieties about the dangers of ignorance on the subject of insanity, it becomes clear that unlike Braddon, Reade doubly challenged contemporary critical doctrines about realism and the legitimacy of fiction, using art to make truth-claims and using truth to underpin his art.

In 1860 the physician Thomas Mayo argued that there were 'certain great psychological truths which it is incumbent upon the public to possess as a part of education, if they would avoid being victimized [...] by the more sprightly and flippant errors of the present day [...] How much good may be done, how much evil may be averted [...] by an enlightened application of the public mind in these directions'.<sup>108</sup> He was alarmed that 'psychological truths' were being undermined by the representation of insanity and its treatment in novels, newspapers and popular journals (all of which reinforced 'prevalent errors in the public mind'<sup>109</sup>). As this chapter has argued, physicians were not alone in expressing a desire to educate a naïve public.

Though the key to a heightened understanding of the complexities of madness and its treatment, enlightenment as Reade envisaged it contributed to rather than quelled public suspicion of the self-proclaimed expertise of 'mad-doctors'. In their conscious effort to control both representation and reception of their works, and in deliberately provoking powerful responses in their readers, ranging from sympathy, benevolence and pity, to horror and fear, both novelists simultaneously assisted and hindered the nineteenth-century psychiatric profession's desire to resituate insanity in the public mind not as something to be feared and so contained, but as a disease which necessitated careful and kindly moral treatment. As the following chapter will demonstrate, this 'psychological truth' continued to be contested throughout the latter half of the nineteenth century.

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108 Thomas Mayo, 'On the Relations of the Public to the Science and Practice of Medicine', *Fraser's Magazine*, 62 (August 1860), pp.179, 180.

109 James F. Duncan, *Popular Errors on the Subject of Insanity, Examined and Exposed* (Dublin: James McGlashan, 1853), p.160.



## Chapter Eight

### Wrongful confinement: 1877-1878

It was the medical profession's development of sophisticated nomenclatures of insanity which, in the end, weakened public confidence in medical authority and heightened fear of wrongful confinement. This last chapter develops this argument by examining the parliamentary investigation into the operation of the lunacy laws 'so far as regards the security afforded by it against violations of personal liberty'.<sup>1</sup> Lewis L. Dillwyn, M.P. for Swansea, called for the appointment of a Select Committee Inquiry in February 1877. Though instituted with the *specific* intention of examining whether or not the lunacy laws secured adequate safeguards to prevent wrongful detention in lunatic asylums, the final Report published in March 1878 was 'voluminous'.<sup>2</sup>

The Select Committee Inquiry of 1877-1878 has been variously referred to in medical and social histories of insanity, used to investigate the role played by the Commissioners in Lunacy in the history of Victorian lunacy reform, as well as serving to illuminate the histories of individual physicians and alleged lunatics like Louisa Lowe.<sup>3</sup> It was employed to illustrate the fear and hatred both of lunatics and those in charge of lunacy, as well as documenting the perceived increase in insanity in the latter half of the nineteenth century.<sup>4</sup> Yet though the Inquiry has been appropriated to a range of diverse uses, it has usually been a source for inquiries into other, though related, topics. No comprehensive interpretation or analysis of the Inquiry in relation to wrongful confinement has been undertaken. Little attention has been paid, for example, to the striking discrepancy between the narrow specificity of the Inquiry's initial objective and its eventual 'kaleidoscopic' and 'chaotic' breadth. One explanation for such an absence of interrogation may lie in the fact that the Inquiry was, in the history of lunacy law reform, far from ground-breaking. Its conclusion, that 'allegations of *mala fides* or of serious abuses were not substantiated',<sup>5</sup> engendered no alteration in the lunacy laws; the Inquiry ultimately vindicated the profession of mental science

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<sup>1</sup> *JMS*, 23 (1877-78), p.457.

<sup>2</sup> Presenting the testimony given by 63 witnesses over the course of two parliamentary sessions, the Report consisted of '583 pages, quarto size, of closely printed matter' and weighed nearly 3lb.8oz. *JPMMP*, 31 (1878), p.44.

<sup>3</sup> See Owen, *The Darkened Room*, pp.168-201. See also chapters on Samuel Gaskell, John Charles Bucknill, and Henry Maudsley in *Masters of Bedlam*. pp.161-186, 187-225, 226-267.

<sup>4</sup> Kathleen Jones, *Mental Health and Social Policy, 1845-1959* (London: Routledge & Kegan Paul, 1960), p.22; Scull, *Museums of Madness*, pp.243, 245.

<sup>5</sup> *Report from the Select Committee on Lunacy Law; with the Proceedings of the Committee*; PP 1878 XVI, 43, p.iii.



and its asylum proprietors from accusations of obloquy and charges of abusing legal safeguards for financial gain.

An equally compelling if obvious reason why the Inquiry has only been culled for specific detail lies in the fact that unlike the 1845 and 1859-1860 Select Committee Hearings (which both led to dramatic reformulations of the lunacy laws), in 1877 there were no 'lunacy *cause célèbre[s]*'<sup>6</sup> to heighten the interest of newspapers and which in turn would have elicited a wider awareness of, and interest in, the hearings. While the *Lancet* observed that there was 'no skeleton to be exhumed, and no dark disclosure to be effected',<sup>7</sup> the *Journal of Mental Science* described the hearings 'chiefly as a sop thrown to satisfy a few noisy importunate lunatics who were at large'.<sup>8</sup> L. Forbes Winslow argued with his usual flair that the hearings had simply

originated in imaginary grievances, morbid fancies, actual delusions, and in the hostility and antipathies of those who had been subjected to asylum restraint. These miasmata invaded a sensitive and susceptible nature, were manifested in an annual paroxysm of complaints and petitions in Parliament, and, ultimately, through the long-recognised efficacy of importunity, through the incessant drop, dropping on the marble heart of authority, secured, in a soft and yielding moment, a public recognition from the Secretary of State.<sup>9</sup>

In spite of the fact that the law remained unchanged, and though there was neither 'public excitement on the subject of lunacy or any public demand for an inquiry',<sup>10</sup> the select committee investigation of 1877-78 is significant. It explored anxieties about wrongful confinement as they had developed and altered over the course of the nineteenth century, particularly in response to the expansion of classificatory systems of insanity, and it examined the interface between the reality of insanity and the 'idea' of insanity as it was manifested in Britain in the second half of the nineteenth century.

As Winslow's language and tone suggest, though the tenor of the debate over wrongful incarceration had not abated, the frames of reference - as evidenced in the breadth of issues covered in the hearings - had extended in what we might consider to be a far from 'desultory fashion'. The

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6 *JMS*, 23 (1877-78), p.457.

7 *Lancet*, (1877) i, p.691. The language the journal employed suggests a conscious attempt to break down the popular association between wrongful incarceration and the horrors of sensation fiction. Yet ironically, it serves to reinforce the way in which distinct medical and literary discourses and their terms of reference operated on one another during this period.

8 *JMS*, 23 (1877-78), p.457.

9 *JPMMP*, 30 (1877), p.311.

10 *JMS*, 23 (1877-78), p.457.



lay-public's increased role, and often undesired involvement in matters psychiatric, had become extraordinarily influential in medical and legal conceptions of responsibility and authority.

This chapter is divided into three sections. The first explores two accounts, both published in 1877, of the nineteenth-century reforms in lunacy legislation. J. Mortimer Granville and John Sibbald, both prominent figures in the medical community, offered dramatically different interpretations of the success of reforms. Central to both accounts was the role played by the lay-public. The select committee witnesses, whose testimony is discussed in both the second and third sections, were informed by these two positions. Accompanying the heated debates about accountability was a concern about the effects of the extension of medical nomenclatures to include moral insanity and monomania. The complex relationship between the professions of law and medicine were subject to intense scrutiny. The third section focuses on the testimony given by one of the pre-eminent authorities on lunacy and its treatment, Lord Shaftesbury. His contradictory comments on the responsibilities of the lay-public (and the role of publicity) in medical matters ironically acted to undercut the credibility of the profession which he was seeking to defend. This section contrasts his opinions with those of James Billington, the secretary of the new Lunacy Law Amendment Society, a body formed to agitate on behalf of alleged lunatics and whose testimony was discussed in great detail, and with derision, by medical journals covering the investigation.

*i. 'Imperfect fellows' in a 'finikin civilization': lunacy reform in 1877-1878*

Under the title, *The Care and Cure of the Insane*, in 1877 J. Mortimer Granville published the results of an extensive survey of lunatic asylums. Sponsored by the *Lancet*, over the course of the three previous years Granville had visited and observed the operations of a range of asylums (including county asylums, licensed houses and workhouses) in the city of London, Middlesex and Surrey. The purpose of Granville's inquiry was three-fold. He was employed by the editor of the *Lancet* to ascertain the general character and efficiency of the institution's provisions (and the condition of the patients' daily lives), to observe treatment systems for both remedial and chronic cases, and to collect and collate statistics of cases for the past ten years. Granville acknowledged that the recognition of insanity as a disease and the formerly cruel and abusive treatment of the insane had both led to substantive reforms. Yet though the key initiative of reform - the replacement of punitive methods of treatment with a humane system of moral therapy - was a laudable advancement, Granville believed that it had not led to any improvement in the care and cure of the insane.

Granville believed that the recognition of insanity as a disease had been taken too far. He was critical of the sentiment expressed in medical circles that judges and juries were increasingly extraneous figures in determining, for example, between crime and insanity. A reviewer in *The Times* summed up this view: 'many persons [psychological physicians] regard lunatics as worthy of exemption from punishment not merely in relation to faults which are the result of disease, but



altogether'.<sup>11</sup> Though the abolition of the 'old system' of physical restraint and its replacement with manual and chemical restraints was applauded as a humane and enlightened initiative, the compassionate 'treatment' administered under the 'new system' seemed to Granville equally deleterious to the care and cure of the insane. Due to the absence of any national or even regional system of training and certification for asylum attendants, the use of manual restraint was unregulated. Their capacity for brutality often resulted in broken limbs and, occasionally, the deaths of lunatics.<sup>12</sup> The use of drugs such as chloral also produced 'disastrous effects [...] [and had] a tendency to enable patients, who might otherwise recover, to glide over the crisis of their complaint, and pass into a state of permanent dementia'.<sup>13</sup>

Granville felt that too much reliance had been placed in the humane trappings of moral therapy - provisions, amusements, surroundings - to the detriment of the psychological physician's practice of remedial or curative treatment. Despite the auspicious commencement of moral management, to Granville the 'new' system's replacement of physical restraint with the patient's assertion of self-control and individual will-power had been undermined by the use of drugs and manual restraints, thus denying real incentive to recovery. Instead, not only had there been no substantial improvement in the results obtained since the abolition of restraints, but rather 'a positive diminution of the proportion of cures'.<sup>14</sup> The failure of the 'new system' of moral therapy was in part due to a dangerous complacency on the part of the public: 'Philanthropists, animated only by feelings of humanity, were not unnaturally satisfied with the reform effected; and the insane being liberated from their chains and kindly treated, public opinion rested from its enterprise of mercy'.<sup>15</sup>

Though Granville did not seek to trace the cultural, political and institutional influences which had led to an unbalanced and ineffectual 'repentant compensation',<sup>16</sup> he refers to the productive *power* of public opinion. Had the public *not* been satisfied with the state of asylums and

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11 *The Times*, 29 December, 1877, p.3.

12 For typical accounts of the abusive treatment of lunatics by their attendants see, *BMJ*, (1862), ii, p.658, and the *Lancet*, (1862) ii, p.663.

13 *Report from the Select Committee on Lunacy Law; Together with the Proceedings of the Committee, Minutes of Evidence, and Appendix*; PP 1877 XIII, 1, p.400. For a more favourable opinion of the effects that drugs could have on lunatics see George H. Savage, 'On the Treatment of Insanity, More Especially by Drugs', *Guy's Hospital Gazette*, 3rd series, 23 (1878), pp.134-164.

14 J. Mortimer Granville, *The Care and Cure of the Insane: Being the Reports of the Lancet Commission on Lunatic Asylums, 1875-6-7. For Middlesex, the City of London, and Surrey*, 2 vols (London: Hardwicke and Bogue, 1877), ii, p.222.

15 Granville, *The Care and Cure of the Insane*, ii, p.221.

16 *The Times*, 29 December, 1877, p.3.



treatment, agitation would have initiated debate which would in turn have led, if not to reform, then at least to closer scrutiny. Instead, the public had apparently been lulled into believing that lunacy reform had been successfully effected when to Granville it had been taken too far and in the wrong direction.<sup>17</sup> He felt that the present-day care of the insane reflected merely a reactionary protest against the past. Pointing to the decreasing rates of cure and the increasing number of chronic cases silting up in the asylums, he argued that the lauded reforms were simultaneously excessive and incapable of curing lunacy. He concluded that 'on nearly all the leading lines of advance and improvement there has been more stagnation than progress, since the emancipation of the insane from a state of bondage and imprisonment with the professed purpose of bringing them under the benign influence of a curative *régime*'.<sup>18</sup>

In the same year that Granville published *The Care and Cure of the Insane*, a very different interpretation of reform was being expounded by John Sibbald, the Deputy Commissioner in Lunacy for Scotland. In the third and final Morison lecture on insanity for 1877, entitled 'Insanity in Modern Times' and delivered before the Royal College of Physicians in Edinburgh, he sought to explore the interlocking developments which had led to what he considered a triumph of 'compassionate consideration' in the treatment and understanding of the insane.<sup>19</sup> Sibbald believed that there were two pivotal explanations for reform in the care and treatment of lunatics. Firstly, the improvement of the political circumstances of states and the increasing 'social organisation' of communities, and secondly, the evolution of the 'the humane sentiment of society' (p.539), which had begun to exhibit strength sufficient to exercise a powerful influence on every department of civil organisation. Such a 'revolution in public sentiment' (p.543) produced, Sibbald argued, an extension of the limits of the popular understanding of insanity. It was this 'broader conception of the nature of insanity which advancing civilisation had generated in the public mind' that he felt 'acted most powerfully in creating the irresistible demand for the improvement of asylums' (p.542).

Sibbald believed that without the expansion of the 'idea' of insanity and the 'increased comprehensiveness of signification' (p.543) it generated in the public mind, the struggle between 'barbarism and civilisation' and between 'darkness and light' in the treatment and understanding of the insane might not have been quite so triumphant. Though *The Times* reviewer agreed with Granville that reformist measures remained inadequate, he also agreed with Sibbald in suggesting that reform could not have been accomplished without 'the improvement in the moral sense of the

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17 Granville, *The Care and Cure of the Insane*, ii, p.223.

18 Granville, *The Care and Cure of the Insane*, ii, p.221.

19 John Sibbald, 'Insanity in Modern Times', *JMS*, 23 (1877-78), p.539. Further page references are contained within the text.



majority of our countrymen'<sup>20</sup> and the development of the 'belief that the duties of society were not at an end in the case of those who had become incapable of remembering their correlative duties to society, but that it was an obligation which society owed to its moral nature'.<sup>21</sup>

Paying tribute to the triumph of 'compassionate consideration' and expertise over brutality and ignorance, Sibbald presented an optimistic vision of the development of lunacy reform since the late eighteenth century. In marked contrast, Granville drew opposite conclusions about the implementation of reformist measures. Though both writers disagreed on the achievements of reform, they both acknowledged the substantial effect that public opinion, popular sentiment, and the moral sense of the people had had on nineteenth-century lunacy reform. Characterised by an increased 'comprehensiveness' in the 'idea' of insanity, the 'revolution in public sentiment' played an important but overlooked role both in refining popular responses to the lunatic and his or her treatment and in complicating medical and legal notions of social normalcy and deviancy. Paying attention to these specific developments, this chapter will consider Granville and Sibbald's antithetical interpretations of reform in the context of the testimony of witnesses during the select committee investigation of 1877-78.

One of the central goals of the Committee was to clarify the excessively complicated administration of the lunacy laws as they related to civil liberties. Under the direction of the Chairman of the inquiry, Stephen Cave, the Committee members interrogated witnesses on a wide range of issues. Much attention was given to the responsibilities and duties of the legal and medical departments involved.<sup>22</sup> Though the employment of drugs in lunatic asylums, the size of asylums and their classificatory systems of treatment were all discussed, particular attention was paid to recognised defects of the laws. These included the imperfect wording of the lunacy certificates (names, dates and important details of diagnosis were too often omitted, weakening the specific role of the certificate as a protection of personal liberty) and the inadequate care of single patients.<sup>23</sup>

In order to ascertain how the lunacy laws might better serve the lunatic and safeguard his or her liberties, numerous suggestions were made by all of the witnesses. These included the

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<sup>20</sup> *The Times*, 29 December, 1877, p.3.

<sup>21</sup> *The Times*, 29 December, 1877, p.3.

<sup>22</sup> These included Chancery Visitors, asylum superintendents and medical men, Commissioners in Lunacy, lawyers and the medical officers of workhouses.

<sup>23</sup> Single patients were lunatics who were not under commission and who were boarded out to families, friends, and boarding houses. If the single patient owned property, the confinement was overseen by the Chancery Visitors in Lunacy. For all others, it was entirely unregulated. On the furore surrounding the horrific treatment of the unregistered 'single patients' see 'Lunatics Out of Asylums', *Lancet*, (1877) i, p.944.



appointment of an independent medical man (nominated by the Commissioners in Lunacy) to each private asylum, making private asylums free to visits from inspectors and family members at all times, increasing the number and extending the powers of the Commissioners and the Chancery Visitors, making certificates terminable (as in Scotland), and replacing licensed houses with public hospitals (again, as in Scotland). Perhaps most contentiously, several witnesses suggested that an overhaul of the lunacy laws could only be achieved by shifting the right to diagnose lunacy from medical to legal authorities. Charles Lockhart Robertson also caused alarm when he suggested that asylums themselves were antagonistic to cure.<sup>24</sup>

Though the *Lancet* did not want to ‘condemn the evidence *en masse* or to stigmatise the opinions of competent witnesses as worthless’, the way in which testimony had been received ‘without discrimination as to the competency of the witnesses or the nature and purpose of their expressed opinions’ could only lead to immature and confused judgments.<sup>25</sup> To the journal, the ‘integrity and usefulness’ of the inquiry’s conclusions and recommendations depended on distinguishing between fact and opinion or ‘separating the wheat from the chaff’.<sup>26</sup> Yet because the ‘wildest assertions have been made, [and] the most sweeping and contradictory views propounded’, the *Lancet* felt that there was little hope that anyone could gain a clear perception of the problem, or aid the Committee in solving it.<sup>27</sup> Even the witnesses themselves felt that far from amounting to a comprehensive examination of the relationship between the lunacy laws and civil liberties, the specific goal of the Inquiry had become mired in extraneous issues. Sir James Foxe, the Chief Commissioner in Lunacy for Scotland, felt that the Inquiry was marked by ‘a lack of coherence’ and ‘an apparent want of any definite object’ concluding that ‘a perusal of the evidence leaves the reader in a somewhat chaotic state of mind’.<sup>28</sup> Lyttleton Stewart Forbes Winslow, a leading physician specialising in mental science, felt that the questions were no more than ‘dreary

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24 Reported in *JMS*, 23 (1877-78), p.469. Charles Lockhart Robertson (1825-97) was from 1870 until the year before his death one of the Lord Chancellor’s Visitors in Lunacy. Prior to gaining this position he was the medical superintendent of Sussex County Lunatic Asylum. With the perception of lunatic asylums as custodial warehouses on the increase in the second half of the nineteenth century, this opinion gained increasing support. See Scull’s analysis of this development in *The Most Solitary of Afflictions*, pp.267-374.

25 ‘The Lunacy Law Inquiry’, *Lancet*, (1877) ii, p.285.

26 ‘The Lunacy Inquiry’, *Lancet*, (1877) i, p.690

27 *Lancet*, (1877) i, p.690.

28 Sir James Coxe, *Lunacy in its Relation to the State. A Commentary on the Evidence taken by the committee of the House of Commons on Lunacy Law in the session of 1877* (London: Sampson Low, Marston, Searle, & Rivington, 1878), p.3.



lucubrations'.<sup>29</sup> From Dillwyn's motion to the publication of the Committee's Report in March 1878, the scope and thus the significance of the Inquiry had extended 'in a desultory fashion',<sup>30</sup> beyond the expectations and desires of interested observers. As one contemporary observer wrote, the hearings ultimately represented no more than 'a kaleidoscopic view of the conflicting and ever-shifting aspects of opinions on the subject of lunacy'.<sup>31</sup>

ii. *'Is Insanity a disease?'*

The 1877-78 Inquiry reveals an important extension of the parameters of 'responsibility'. During the McNaughten case of 1843 issues of responsibility were interpreted primarily in regard to the criminal culpability of the defendant. By 1877, the conception of responsibility had expanded to include not only the defendant in medico-legal cases, inquiries and commission, but also the legal profession, the psychiatric community, the relations and friends and relatives of the alleged lunatic, and importantly, the newspaper press. It becomes clear that each group were considered in some way responsible for the questionable success of the lunacy laws as they were applied to tenuous, partial, or indefinite cases of insanity. Representing two significant moments in the history of lunacy reform, the 1843 McNaughten case and the 1877 Select Committee Inquiry demonstrate that a formative shift both in popular, legal and medical notions of insanity had taken place in regard to conceptions of legal, social and medical accountability.

As Bucknill explained in his discussion of the Nottidge case in *The Care of the Insane*, the sole purpose of the law was to provide for the safety of the public and the individual. Where there was no danger, there existed no legal justification for confinement. To the medical profession, *early* confinement was necessary to treat disorder, even if the lunatic posed no direct danger to the public at large. Their responsibility to treat the lunatic authorised and justified confinement. The disparity between the legal and medical conceptions of the terms of treatment was further complicated by the expansion of the medical nomenclature of insanity to include moral insanity, a disease which more often risked moral injury rather than physical danger.

Under the improved administration of asylums, Sibbald felt that as well as the broadening of the 'idea of insanity', medical classification had also expanded to include 'many persons who had not previously been considered fit inmates for such establishments' (pp.542-543). Whereas abnormalities and eccentricities of conduct might have been tolerated in a time and place when the population was 'sparse and pastoral', Sibbald believed that in the late nineteenth-century

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29 *JPMMP*, 30 (1877), p.311. The author was Lyttleton Stewart Forbes Winslow, himself one of the witnesses called to testify at the hearings.

30 Coxe, *Lunacy in its Relation to the State*, p.3.

31 *Lancet*, (1877) ii, p.285.



environment of the city, 'full of the complex operations of a highly developed commerce' (p.544), such behavior was intolerable: 'In the former period they would have continued members of the household in which they were born; at present they would be regarded as insane and sent to an asylum' (p.544). Sir James Coxe, a Medical Commissioner for the Scottish Board of Lunacy, felt similarly that there was 'reason to think that the meaning of the statutory terms of lunacy has of recent years been considerably extended, and that a belief is pretty widely held that forms of thought and feeling that were formerly regarded as mere eccentricities or absurdities of character, are now frequently dealt with as insanity'.<sup>32</sup>

Bucknill wrote in 1880 that the lunacy law had

extended in its application to large classes of persons who would never have been considered lunatics when this legislation was entered upon [...] Since 1845, medical science has discovered whole realms of lunacy, and the nicer touch of a finikin civilization has shrunk from the contact of imperfect-fellows [...] The old brutalities have become rare [...] and instead thereof another evil has been evolved, and the asylum system in its whole vast extent has encompassed an ever-increasing multitude, numbers of whom might well be enjoying moderate freedom and comparative happiness in their own homes.<sup>33</sup>

Physicians specialising in the field of mental disease argued that classificatory systems of insanity had evolved naturally in response to the increasingly diverse forms of insanity caused by the accelerating pace of change in western civilization.<sup>34</sup> Though the refinement of classificatory systems allowed greater effectiveness of treatment, it posed problems.

The centrality of 'moral freedom' to the Inquiry, particularly in relation to the perceived threats posed to the liberty of the subject by the 'the marble heart of authority' in its various guises, ensured that the distinction between sanity and insanity was a preoccupation of the committee members. In order to ascertain whether or not the law was sufficient to protect the liberty of the subject, every witness was asked whether or not they knew of any cases in which a patient had been willfully and wrongfully sent to an asylum, and whether or not they had experienced cases in which a patient had either been detained for mercenary motives or for longer than was necessary. Some witnesses rejected outright this blatant contravention of the lunacy laws while others admitted that they had witnessed such abuses, but almost all agreed that what Granville describes as the 'increasing subtlety of the mental condition' compounded the difficulty of determining accurately whether an individual suffering from 'indefinite insanity' should be

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32 Coxe, *Lunacy in its Relation to the State*, p.11.

33 Bucknill, *The Care of the Insane*, pp.4-5.

34 See, for example, D.H. Tuke, 'Does Civilization favour the Generation of Mental Disease', *JMS*, 4 (1857-58), pp.94-110; and J. S. Jewell, 'Influence of our Present Civilisation in the Production of Nervous and Mental Diseases', *Journal of Nervous and Mental Diseases*, 8 (1881), pp.14-17.



confined in an asylum or be permitted to reside outside the asylum, perhaps 'to subvert domestic quietude'.<sup>35</sup> Bucknill illustrated an inconsistency between the lawyer's view of the insane (founded when society was young and simple) and the doctor's view of what must be done to 'prevent mischief among the tender and complex interests of modern life'.<sup>36</sup> It was unsurprising, perhaps, that the evidence of witnesses turned almost immediately to the doctrine of moral insanity.

Dr John Nugent, Inspector and Commissioner of Control on the Board of Lunacy in Ireland, stated that if the law was properly exercised and fairly carried out, undue confinement should not exist. Yet in his *practical* experience the 'most difficult question of all to deal with' was not only to determine the existence of moral insanity but 'how far the detention is justifiable, of a person labouring under that morbid state where there is a perverted mind, unaccountable conduct, and an abandonment of those feelings that ought to exist in a well-regulated society, marked by acts of folly, extravagance, and dissipation'.<sup>37</sup> Though he felt that dipsomaniacs, for example, should not be subjected to confinement in an asylum, Nugent concurred with many physicians in believing that the lunatic always posed dangers to those around him and should as a matter of course be confined to an institution. Yet he could not state with any degree of clarity whether or not the injurious acts committed by the morally insane should automatically require asylum-based treatment. To draw the line between moral insanity and 'moral obliquity' the key determinant to Nugent was the degree to which the patient entertained sentiments and feelings in regard to others which were not 'justifiable'. To Richard Adams, the superintendent of the Cornwall asylum in Bodmin, moral insanity was evidenced by a want of 'moral restraint' in which the individual held no delusions but was nevertheless guilty of 'purposeless acts'.<sup>38</sup> Though the morally insane acted 'wickedly in every way' such acts were not criminal because they 'arise from nothing, and lead to nowhere, so to speak' (p.362).

Adams agreed with Nugent that the legal safeguards currently in force were theoretically sufficient to protect the liberty of the subject. Yet in admitting to Cave that he had discharged several patients as *not* insane, he defended what appeared to be instances of wrongful incarceration by blaming the law. The individuals in question, he explained, had behaved in an extraordinary manner, or had done 'very odd and peculiar things for a series of years',<sup>39</sup> for which the law was forced to intervene. The 'law' had judged that they were insane rather than wicked and they had

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35 PP 1877 XIII, 1, p.131.

36 Bucknill, *The Care of the Insane*, pp.53-54.

37 PP 1877 XIII, 1, p.131.

38 PP 1877 XIII, 1, p.362.

39 PP 1877 XIII, 1, p.355.



therefore been sent to his institution rather than a prison. In contrast to morally insane acts, Adams felt that 'atrocious crimes' had a *cause*. Though he agreed with Nugent that to distinguish between insanity and sanity in such cases was 'extremely difficult', to clarify the distinction one need look to the patient's 'family' history, which would inevitably show signs of an 'insane taint', and to the information to be gained from close observation and individual attention. The detention of the morally insane in asylums was only justifiable if the patient had become dangerous to himself or to others, or if the physician believed that the removal to an asylum would cure the afflicted patient; not if the patient's 'moral evil' merely became annoying to friends and family.

William Balfour, like Nugent and Adams, was experienced in the field of lunacy, having held the position of medical officer at Colney Hatch and the position of superintendent at the Hampstead asylum for imbeciles. Unlike Adams and Nugent, he stated in his testimony that the lunacy laws were insufficient to protect individual liberty. Moral insanity in its legal framework took centre stage in Balfour's evidence. Whether or not to confine the morally insane depended, he suggested, on whether or not moral insanity was considered a disease. Because the law did not recognise moral insanity, any criminal acts committed by what physicians considered morally insane individuals were punished accordingly. In contrast, to physicians it represented mental imbalance and was properly classified as a disease. Yet in either case and whether in prison or in the asylum, Balfour believed that 'treatment' was offered and for this reason he felt that the law - both lunacy and criminal - was consistent. It was however, threatened by what he saw as a two-fold 'abuse of [...] power'.<sup>40</sup>

The lunacy law inevitably relied on the 'honesty of the medical profession' but Balfour felt it to be an unfortunate fact that the 'generality of medical men' were not 'conversant with lunacy'.<sup>41</sup> Furthermore, the alleged lunatic's friends and family compounded the inexperience and ignorance of medical men by abusing the trust of such physicians in order to relieve themselves of individuals who had become troublesome. Balfour agreed with the sentiments of a writer for the *Lancet* who wrote that in 1877 it was still possible 'for any unprincipled "friends" of a weakly, excitable, or distressed person, to procure certificates upon which his introduction to an asylum may be effected'.<sup>42</sup> Though it was suggested that cases in which reluctance to discharge patients from private asylums were limited in number (and defended by fears that to release the patient too early into the 'vortex of the worrying world'<sup>43</sup> would lead to unforeseen consequences), the

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40 PP 1877 XIII, 1, p.151.

41 PP 1877 XIII, 1, p.151.

42 'Lunacy Law Reform', *Lancet*, (1877) i, p.429.

43 *Lancet*, (1877) i, p.429.



anxiety expressed by Balfour centred again the question of who should exercise the responsibility to detain an individual, for how long, and on what grounds: medical or legal.<sup>44</sup>

The opinions of Nugent, Adams and Balfour on moral insanity highlight the way in which it remained problematic, both to the consolidation of the physician's control over the lunatic and to the *public* perception of him as a competent judge of insanity (and conversely as a responsible and trustworthy guardian of the community at large). Importantly, their comments also demonstrate the way in which the function and effectiveness of the *law* in its medical relations was rendered most fragile when applied to what one of the Committee member described as cases of 'indefinite insanity'.<sup>45</sup> This was aptly demonstrated in early 1878 with the case of a Reverend Henry John Dodwell. The clergyman was obsessed with the idea that due to his dismissal as Chaplain to the Industrial Schools at Brighton, the 'whole official world was in league against him'. Unable to gain redress through the Court of Chancery for what he perceived as a grievous wrong, he devised the idea of firing a pistol at the Master of the Rolls, Sir George Jessel, in order to draw public attention to his 'own fancied wrongs'.<sup>46</sup> Committing the act on 22 February, he was immediately arraigned at the Old Bailey. In the trial which followed, Dodwell rejected legal assistance and chose to conduct his own defence. He argued that because the pistol was unloaded, the action was harmless and thus could not be construed as an attempted assassination. On 15 March a jury found Dodwell guilty of common assault, but on the charge of feloniously shooting with intent to murder he was acquitted on the grounds of insanity. He was sent to Newgate and then Broadmoor.

Because Dodwell had been incarcerated in a lunatic asylum without any medical testimony being given to substantiate the accusation, it was viewed as a sensational instance of wrongful incarceration. Dodwell himself complained that he had been declared *non compos mentis* without any medical witnesses having been called. He considered anything preferable to being 'stamped as a criminal lunatic and incarcerated as such for life in a living tomb'.<sup>47</sup> While in Newgate Dodwell was examined by L.S. Forbes Winslow and a Dr. Winn. Both physicians concluded in their report to the Home Office that Dodwell was sane.<sup>48</sup> However, all attempts to release him from

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44 Balfour's reaction to the unlawful detention of individuals who held 'delusions, queer crochets, queer ideas about things' but who were neither dangerous nor suicidal, was to reinforce inspection procedures by 'nationalizing' the problem by making the private establishments the property of the district or state.

45 PP 1877 XIII, 1, p.363.

46 *The Times*, 16 March, 1878, p.9.

47 *The Times*, 29 March, 1878, p.5.

48 L. Forbes Winslow, *Recollections of Forty Years. Being an Account at First Hand of some Famous Criminal Lunacy Cases* (London: John Ouseley, 1910), pp.116-126.



Broadmoor were unsuccessful. According to Winslow, he had in fact been 'driven mad by the environment of the place' and as a result died there.<sup>49</sup> In cases of alleged insanity where there was no indication of a perversion of intellect, as in moral insanity, medical evidence was not required by law to determine the fact or degree of responsibility. Determined as it was without the benefit of expert medical testimony, the ruling in the Dodwell case drew fierce condemnation from the *Lancet*. The verdict afforded a 'striking illustration of the extraordinary position in which the law still places the question of responsibility'.<sup>50</sup>

To the journal the case exemplified the way in which the law could paradoxically determine insanity, a recognisable 'disease', without basing the judgment on medical testimony. It was 'one of the conspicuous anomalies of our judicial system, the removal of which has been unaccountably delayed'. The whole question of the relationship between insanity and responsibility when considered without the benefit of a judgment 'trained in the investigation, and practiced in the diagnosis, of mind disorder and disease' was liable to be misconstrued and misapplied. It was a serious and alarming consideration to the profession of mental science that a jury 'may at any moment err fatally in, the recognition of insanity, sending a victim of disease to the gallows, or incarcerating a sane, though misguided and vain, man to a madhouse for life, in place of visiting his offence with an appropriate legal penalty'.<sup>51</sup> Winslow believed that

in cases where guilt or innocence is simply to be decided they [the lay-jury] are quite as competent to deal with the matter as most cultured people in the land [...] but where an abstruse subject, involving scientific and psychological investigations, occurs, and where the objective and subjective state of the mind has to be dealt with, and where the question of madness or rationality is the one under consideration, then [...] the tribunal to decide this should not be a number of ignorant gabies.<sup>52</sup>

To Henry Maudsley, the acquittal or conviction of a prisoner where insanity was alleged was a merely a matter of chance. Were 'the issue to be decided by tossing up a shilling, instead of by the grave procedure of a trial in a court, it could hardly be more uncertain'.<sup>53</sup> The greatest irony was that though the physicians involved in the Dodwell case had declared him sane, the case nonetheless aroused hostility towards the profession.

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49 Winslow, *Recollections of Forty Years*, p.126.

50 'Lay-Judgments on Insanity', *Lancet*, (1878) i, p.429.

51 *Lancet*, (1878) i, p.429.

52 Winslow, *Recollections of Forty Years*, pp.101-102.

53 Henry Maudsley, *Responsibility in Mental Disease* (London: Henry S. King, 1874), p.101.



While *The Times* agreed with Maudsley and Winslow that lunacy was a proper question for medical experts, the paper wished that 'experts [...] would be less apparently anxious to draw all criminals under the shelter of their protecting sentence. It will be a dangerous time for the sane part of our population if ever these extreme views are suffered to prevail'.<sup>54</sup> The Dodwell case pitted the legal profession against the medical profession. Just as lawyers took issue with the 'fanciful theories of medical men who never fail to find insanity where they earnestly look for it',<sup>55</sup> so too did physicians condemn 'the unjust and absurd criterion of responsibility which is sanctioned by the law'.<sup>56</sup> That such a defect in the law should be rectified immediately was important, so argued the *Lancet*, because 'these too frequently occurring disputes about the sanity or insanity of persons who commit acts injurious to the public peace tend to weaken the general respect for what claims to be full and impartial justice'.<sup>57</sup>

To Bucknill, the statute and lunacy laws were in 'such a hopeless state of entanglement, that it would seem that nothing short of codification can possibly succeed in loosening and smoothing out their knotted intricacies and confusions'.<sup>58</sup> The debate over the criterion of responsibility was both underpinned by and illustrative of the difficulty of achieving an accurate definition of insanity within increasingly sophisticated and complicated nosologies of mental affliction. With the recognition of moral insanity, a disease in which the individual may know what he is doing is wrong, yet who remains unable to resist the impulse to commit criminal acts, the journal felt that the 'attempt to measure responsibility by the knowledge of right and wrong to which jurists cling is no longer possible'.<sup>59</sup> No one, it seemed, doubted that the M'Naughten rules - based as they were solely on the criterion of physical impairment and on the presumed common sense of a jury - had become inadequate to cope with 'indefinite' forms of lunacy such as moral insanity.

In the previous decade S. Henry Dickson, Professor of Medicine at the Jefferson Medical College in Philadelphia, had addressed this issue in an article for the *Quarterly Journal of Psychological Medicine and Medical Jurisprudence*. While he admitted that members of the bar complained frequently that they were unable to obtain a satisfactory definition of insanity, Dickson remained cautious of offering a 'positive and sufficient definition as they [members of the

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<sup>54</sup> *The Times*, 16 March, 1878, p.9.

<sup>55</sup> Maudsley, *Responsibility*, p.101.

<sup>56</sup> Maudsley, *Responsibility*, pp.101-102.

<sup>57</sup> 'The Case of Dodwell', *Lancet*, (1878) i, p.691.

<sup>58</sup> Bucknill, *The Care of the Insane*, p.54.

<sup>59</sup> *Lancet*, (1878) i, p.429.



bar] have a right to ask'<sup>60</sup> because though it was possible to 'know or recognize [and to] describe lunacy', defining it remained problematic

partly because of the imperfection of biological and psychological science at the present day, and partly on account of the inherent defects of language. Words, though not given us, as a cynical satirist affirmed, "to conceal our thoughts," must be felt too often to be a very inadequate means of communicating them.<sup>61</sup>

The medical and legal professions were brought into confrontation primarily because of 'difficulty in mutually understanding each other from the difference in the nomenclature which they respectively employ'.<sup>62</sup> The 'great difference of opinion' that set lawyers and physicians in opposition was not so much a disagreement arising from the 'facts or practical inferences to be drawn from them', but rather 'the signification of words',<sup>63</sup> used to describe and indicate insanity. Lawyers used the terms insanity, lunacy, and unsoundness of mind interchangeably; physicians used the term, 'insanity' more often in relation to crime, and 'lunacy' in relation to civil rights (though he admitted that such distinctions were artificial and continually varying). Medicine had established a terminology corresponding to a more generally recognised classification of insanity, divided primarily by dementia (determined by an absolute or partial want of reason) and mania (understood by the fact of delusion). As with Nugent and Adams, the greatest difficulty for Pope was presented by the diagnoses of moral insanity and monomania. Though monomania had, 'by the ingenuity of medical schools, been subdivided into many species' they were in a 'medico-legal sense valueless'.<sup>64</sup> To Pope, the legal terminology of insanity was as confused as the medical terminology was valueless, with no single distinction being adopted or conformed to, distinctions becoming invariably obsolete, and the most important varieties of insanity (those creating civil or testamentary incapacity or criminal irresponsibility) holding no distinct names. As Coxe put it,

In the first place, there may not everywhere be a coincidence of opinion as to what constitutes insanity; and in the second place, when the existence of insanity is fully recognized, a diversity of opinion may yet be held [...] Insanity is explained by lexicographers to be unsoundness of mind, disorder of the intellect, or madness; but these

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60 S. Henry Dickson, 'The Legal Consequences of Insanity', *Quarterly Journal of Psychological Medicine and Medical Jurisprudence*, II (1868), pp.467-506 (p.467).

61 Dickson, 'The Legal Consequences of Insanity', p.471.

62 H. M. R. Pope, *A Treatise on the Law and Practice of Lunacy* (London: H. Sweet, 1877), p.6.

63 Alfred S. Taylor, *Medical Jurisprudence* (Philadelphia: Blanchard and Lea, 1856), p.654.

64 Pope, *A Treatise on the Law*, p.9.



terms are really nothing more than synonymous expressions [...] It thus appears that it is not to dictionaries or Acts of Parliament that we must look for a definition of insanity.<sup>65</sup>

The dilemma caused by the insufficiency of the lunacy and criminal laws was aggravated by the absence of an agreed medico-legal nomenclature of insanity. The explanation for the ascendance of debatable 'opinion' over legal and medical fact was due precisely to both the expansion of the statutory terms of lunacy to include partial forms of lunacy - to the broader conception of insanity and recognition of sub-species and forms (like moral insanity and monomania) that had occurred since the late-eighteenth century - and to the striking disparity between medical and legal conceptions of both insanity and responsibility.

### *iii. Public opinion and white slaves*

In 1876 one of the *Journal of Mental Science's* 'noisy importunate' agitators anonymously published a pamphlet entitled *Slavery in England: An Account of the manner in which persons without trial are condemned to imprisonment for life*. Employing cases of 'solitary survivors' who had emerged from lunatic asylums 'with reason unimpaired to tell the horrible tale of those who have disappeared within the walls of a madhouse, engulfed like those beneath the waves, never to be seen by those they love again',<sup>66</sup> the pamphlet insisted that in a culture circumscribed by moral cowardice and in a society which legally violated personal liberty, 'the natural birthright of all mankind'(p.4), wrongful confinement in lunatic asylums would continue to thrive. Wrongful confinement was not only symbolically represented by the Bastille, but was also imagined as a form of slavery:

If slavery consists in deprivation of liberty, in being absolutely under the power of another, in being deprived of civil rights, of wife, of children, and property, the reader, no doubt to his unbounded astonishment, will find well-authenticated cases of such slavery existing in England, the renowned land of liberty, at the present day.(p.4)

The pamphlet recounted the stories of the 'white slaves'(p.89), victims of the 'evil' system who had been detained in 'prison-houses [...] without trial by jury, or any opportunity of vindicating their rights'(p.5). Their stories were brought before the public to raise publicity, money and influence for the 'righteous cause'(p.93) of lunacy law reform. Though accepting that it lay with the appointment of a Parliamentary Select Committee to effect 'an entire reconstruction of those laws,

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<sup>65</sup> Coxe, *Lunacy in its Relation to the State*, pp.3-4.

<sup>66</sup> 'Eye Witness', *Slavery in England. An account of the manner in which persons without trial are condemned to imprisonment for life, with illustrative cases* (London: W.H. Guest, 1876), p.81. Further page references are contained within the text.



under cover of which the liberties of Englishmen are violated, notwithstanding the existence of Magna Charta and all those safeguards which in this country we might imagine effectually protect our rights' (p.5), a direct appeal was made to the lay-public: 'They [the public] have proved by their protest against the Fugitive Slave Bill that the same hatred of oppression and cruelty dwell in their hearts as animated their forefathers [...] Will they also come forward on the part of the white slaves?' (p.90)

The psychiatric profession was horrified by the tract's strategic invocation of slavery. Parliament had abolished the slave trade in 1807. By 1838 the project of emancipating nearly a million slaves in the British West Indies had been completed. As Linda Colley argues, the success of anti-slavery campaigns had become an 'emblem of national virtue, a means by which the British could impress foreigners with their innate love of liberty'.<sup>67</sup> Both the author of *Slavery in England* and the profession of mental science were sensitive to the rhetorical power of a discourse which invoked liberty and slavery in discussions of incarceration in lunatic asylums. The physicians perceived in the tract's analogy between wrongful confinement and slavery a challenge to their humanitarian credentials and professional credibility. They mounted a rigorous defence of their role in the care and cure of the lunatic.<sup>68</sup> Though the *Journal of Mental Science* agreed that the lunacy laws were capable of reform, the arguments of *Slavery in England* were rejected as 'feeble, one-sided [and] incoherent' and had probably been written by a woman.<sup>69</sup>

The journal's attack on the pamphlet indicates that the psychiatric profession was unprepared for such a rhetorically powerful attack on their propriety and authority. Physicians came to fear the power of lay-public opinion in medico-legal discourses and debates and attacked interventions like *Slavery in England* with whatever means were at their disposal. This included the imputation that 'Eye Witness' was a woman, and had therefore been making emotional arguments which serious men need not consider.

The pamphlet invited support for the newly-formed Lunacy Law Amendment Society (LLAS), whose secretary, James Billington, was asked to give testimony at the hearings on cases of wrongful confinement.<sup>70</sup> Billington demanded that all persons alleged to be insane should either

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67 Linda Colley, *Britons: Forging the Nation 1707-1837* (New Haven: Yale University Press, 1992), p.354.

68 The author of *Slavery in England* was presumably aware that Lord Shaftesbury, chairman of the Lunacy Commission, was a vocal proponent of the abolition movement. See Battiscombe, *Shaftesbury*, pp.238, 254.

69 *JMS*, 22 (1876-77), p.613.

70 Billington explained to the committee members that he and others, including gentlemen of position in the City (which he refused to name), had decided to establish their society seven months previously because they had felt the need to separate themselves from the Lunacy Law Reform Association (LLRA). The spiritualist views of the LLRA's Secretary, Louisa Lowe, were to Billington



be brought first before a magistrate or have the power to demand a jury trial where they might bring witnesses forward to prove their sanity. Once in the asylum, the LLAS insisted that committal papers be made available. Notices should be displayed in the day rooms informing the alleged lunatic of their rights to see a solicitor and post letters without interference. The LLAS demanded that the patient have the option of removal to a public asylum. Lastly, the Society wanted improper detention to be considered a 'public wrong'. False or erroneous allegations of lunacy should be punishable as a misdemeanor when shown to be wilful and malicious.

Being declared insane was a source of shame and embarrassment to patients and their relatives and many were unwilling to offer their cases up to public scrutiny. For this reason, Billington relied heavily on the cases detailed in *Slavery in England*. This strategy exasperated the committee members who demanded that Billington back up his charges with facts and figures and named individuals. In the face of the committee's insistence, which verged on hostility, he insisted that the key to the prevention of wrongful confinement lay in generating publicity and in opening up the diagnosis of insanity from the joint province of medicine and law. The lay-jury was at the heart of the reformers' strategy: 'Our opinion is, that men who have a knowledge of mankind, that in living about the world, not necessarily within a prescribed limit, which medical men or lawyers move in, would have a better opportunity of determining whether a man was insane or not'.<sup>71</sup> Both the 'Eye-Witness' and Billington's criticisms illustrate that the 1877-78 Inquiry forced an interrogation of the rights claimed by the legal and medical professions. Reformers challenged their right to determine the line between sanity and lunacy.

The last witness invited to testify at the 1877-78 select committee inquiry (on 12 July, 1877) was a man widely acknowledged as a defender of the rights of lunatics, the Earl of Shaftesbury, Chairman of the Lunacy Commission since its establishment in 1845. Tracing the course of legislation since the 1840s, he argued that since at least 1859 'we have been in a state of continued progress and a very great improvement'.<sup>72</sup> Testifying before Walpole's Select Committee of 1859, Shaftesbury suggested that lunatics might have been detained longer than was necessary. Agitators for lunacy reform including Billington and the 'Eye-Witness' had repeatedly referred to Shaftesbury's view. Yet while Shaftesbury was now prepared to admit that perfection had not yet been attained, he continued to argue that legislative reform had been at the heart of humane advances in the treatment of the insane. No longer, he felt, were the safeguards implemented by the lunacy laws inadequate to prevent undue detention. Conspiracies were simply next to

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debilitating to the action and aims of the LLAS, despite the common belief that the present laws were inadequate to secure the personal liberty of individuals.

<sup>71</sup> PP 1877 XIII, 1, p.315.

<sup>72</sup> PP 1877 XIII, 1, p.532.



impossible in what had become a 'great liberation society'.<sup>73</sup> When pressed on this point by the Chairman of the Committee in 1877, he emphasised another factor: the power of public opinion. It had been 'so very active, so much attention is paid, visitation is so much improved in a variety of ways [...] that I should say that in the licensed houses, and certainly in the county asylums, the tendency was rather to turn patients out too soon'.<sup>74</sup> Publicity, he felt, had acted powerfully on the 'minds of the superintendants'. The change was especially noticeable since 1859, when 'people were not easily moved to consider these matters'.<sup>75</sup>

Lunacy, Shaftesbury believed, presented a great danger to society and for this reason early detention in an asylum was of utmost necessity. In this first step on the road to cure, responsibility lay with the lunatic's family and friends to pay vigilant attention to the early stages of disease. Shaftesbury wanted to instill in the public a precautionary obligation. They were responsible for scrutinising their friends and relatives for 'peculiar' behavior and for 'something out of the common way'. Yet the fact that in a 'very large number of cases, the insanity is not detected until the overt act has been committed' suggested to Shaftesbury the influence of the 'evil way in which a large proportion of the public judge of sanity and insanity'.<sup>76</sup> In truth, Shaftesbury was ambivalent about public opinion and its role in the treatment of lunatics. He believed that public concern had initiated valuable reforms. However, he felt equally that the public remained largely ignorant of the complexities of the issues, especially those raised by partial forms of insanity:

the large mass of society, even educated persons, are wholly unable to form an opinion unless they see something that is very decided; that they consider aberration; something very peculiar; something out of the common way [...] they do not see that it very often is an indication of his approaching insanity; they put it down [instead] to a sudden change of temper.<sup>77</sup>

Though Shaftesbury accorded the lay-public with duties and responsibilities equaling that of the lunacy commissioners, other notions regarding lunacy and its treatment needed to be excised from the popular imagination, notably the connection between private licensed houses for the insane and the principle of profit which tarnished the reputation of private lunatic asylums. In 1859 Shaftesbury had deplored the principle of profit as the epitome of a 'vicious' system. In his

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<sup>73</sup> PP 1877 XIII, 1, p.535.

<sup>74</sup> PP 1877 XIII, 1, p.533.

<sup>75</sup> PP 1877 XIII, 1, p.549.

<sup>76</sup> PP 1877 XIII, 1, p.534.

<sup>77</sup> PP 1877 XIII, 1, p.534.



1877 testimony, he argued conversely that private licensed houses for the insane provided a valuable service for wealthy individuals and offered treatment unmatched by public institutions limited in funding. Shaftesbury was questioned on his change of opinion and he responded by praising the 'public jealousy upon the subject' of private lunatic asylums.<sup>78</sup> Should either the vigilance of the commissioners or the public be relaxed, the result would inevitably be a return to the past era of abuses, conspiracies and collusions between asylum superintendants, mad-doctors and devious relatives.

Nevertheless, he desired to 'comfort the public mind'<sup>79</sup> by offering reassurance that experts in mental disease were best placed to treat the malady in the site of the asylum, and that they themselves were active agents in this process to cure the lunatic and to protect society. Shaftesbury praised the public for their protection of the liberty of the subject, exhorted them to increase their vigilance for the benefit of a safe society (free from the dangers of roaming lunatics), and deplored their ignorant beliefs (whether grounded in fear or embarrassment); The 'increased comprehensiveness of signification' had led to a broadening not only of the public's awareness of the spectre of lunacy itself, but of the role they might play and the responsibilities they should discharge. '[E]verybody', lawyers, physicians, and the lay-public, should 'be alive to the matter'<sup>80</sup> of insanity. The revolution in public sentiment itself necessitated a revolution in accountability.

As Billington's comments indicate, though publicity was in many respects the key to preventing wrongful incarceration by ensuring early detention, educating the public and heightening society's awareness of the dangers of lunacy, publicity itself posed its own dangers and embarrassments. The pervasive 'social stain'<sup>81</sup> which insanity engendered affected both the lunatic (even after release from an asylum) and his or her family and friends. The 'great fear in England of so many people', Shaftesbury admitted, 'is publicity and anything that tends to bring the patient before the public, and to make the case of the patient notorious, would induce people to keep back that patient [...] before they admitted him to the treatment of an asylum'.<sup>82</sup> In his testimony, Crichton Browne suggested that the reason why well-to-do families preferred the privacy of licensed houses was because there existed a 'wide amount of disgrace' attached to insanity.<sup>83</sup>

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78 PP 1877 XIII, 1, p.558.

79 PP 1877 XIII, 1, p.561.

80 PP 1877 XIII, 1, p.558.

81 *Lancet*, (1877) i, p.429.

82 PP 1877 XIII, 1, p.564.

83 PP 1877 XIII, 1, p.65. Recall the centrality of the issue of privacy in the 1859-60 Select Committee hearings.



Lord Shaftesbury's evidence, especially his conception of the complex and shifting relationship between those with a specialist knowledge of insanity and the lay-public, seems initially to reinforce Sibbald's suggestion that a revolution had taken place in the sentiment of society towards lunacy. Both Sibbald and Shaftesbury appear to agree also that heightened public scrutiny of psychological doctors acted to prevent abuse and stem neglect of their professional responsibilities. Yet whereas Sibbald felt that the broader conception of insanity which had been generated in the public mind had underpinned and influenced the direction of reform, Shaftesbury's comments suggest that the *productive* relationship between the public's widening knowledge and the *result* of the 'broader conception of the nature of insanity [...] [which had been] generated in the public mind' was more tenuous, and for two reasons. First, the difficulty, even for physicians, of accurately determining the existence of insanity, despite ever greater discrimination between kinds and types, and divisions and subdivisions of insanity; and second, the fear of publicity and the subsequent inaction on the part of the public.<sup>84</sup>

#### *iv. Overview*

Because the medical profession had argued that there had been no satisfactory reason for the institution of the Inquiry in the first place, and that the basis for the Inquiry was grounded merely in the hostility and antipathies of 'noisy importunate lunatics' who had been subjected to the machinations of the complicated lunacy laws, their comments following the publication of the Report in early 1878 betray a certain satisfaction:

Altogether, the mountain which had travailed has brought forth a mouse. The cases of grievance put before the Commissioners at great length turned out to be moonshine, and under such circumstances no really valuable result could be expected. A great deal of time has been wasted, for which the only compensation we can see is, that the public mind may possibly be reassured from the scare which first assumed important dimensions under the skilful manipulation of Mr. Charles Reade, in his well-known 'Hard Cash'.<sup>85</sup>

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<sup>84</sup> When John Charles Bucknill travelled to the States to investigate their systems of asylum care, he attributed in *Notes on Asylums for the Insane in America* (London: J. & A. Churchill, 1876) the faults he witnessed not only to defective legislation but to, as one reviewer described it, 'the absence of a healthy public opinion as to the requirements of the insane'. See the *British and Foreign Medico-Chirurgical Review*, 6 (July-October 1877), p.173. This point, I suggest, reinforces the important role that public opinion played in the attitude towards and the organisation within the lunatic asylum.

<sup>85</sup> 'Report of the Lunacy Commission', *BMJ*, (1878), i, p.540.



The *Lancet* agreed: 'The tone of half-heartedness which runs through the [select committee's] Report is in itself a convincing proof that nothing of great moment had been detected which could be held to call for vigorous action, or has even provoked a strong opinion'.<sup>86</sup>

John Charles Bucknill drew opposite conclusions. He believed that the invasion of the liberty of the subject, sanctioned by the powers of caption conferred upon the owners of asylums by the 1845 Act, had for 'a generation made private war upon the liberties of the innocent and the helpless, who are no more dangerous than children, no more in need of imprisonment than the deaf and the blind'.<sup>87</sup> Far from disentangling the roles and responsibilities of the judicial and medical authorities, the 'origin, action and conclusions of this [1877] Select Committee [...] are singularly loose and illogical, as if everyone who touched the subject was bound to become a little incoherent'.<sup>88</sup> Because no-one, it seemed, was content with the report's conclusions (except the asylum superintendants) Bucknill felt that the paradoxical result of the Inquiry was to produce greater public unease and distrust about the operation of the lunacy laws.<sup>89</sup>

What the 1877 Inquiry made clear is that the terms of the debate over wrongful confinement had shifted since the early days of lunacy reform. Most significantly, the parameters of responsibility had extended; more attention centred on the beneficial and detrimental roles that friends and families played in the confinement of alleged lunatics. Considering the fact that throughout the nineteenth century the lay-public had played an increasingly significant role in the revolution in the care and treatment of the insane, it remains ironic that this occurred during a period in which, as Bucknill puts it, the 'nicer touch of a finikin civilization' was shrinking from 'the contact of imperfect-fellows'. The debates set in motion by the select committee hearings of 1877-78, especially those centring on the relationship between 'responsibility' and the role of the public, tapped into many of the anxieties and issues that the coverage of the McNaughten case engendered over thirty years earlier. The 1877-78 Inquiry provides a fascinating juncture through which also to examine the way in which popular conceptions of *rightful* confinement had evolved since the McNaughten case of 1843.

The importance of the McNaughten case was two-fold. Within the courtroom, the trial and subsequent rulings set a legal precedent by which to determine the responsibility attached to lunatics diagnosed with partial forms of insanity. Outside the confines of the court, an equally important debate was taking place. This newspaper and journal controversy, over whether McNaughten was a lunatic or an assassin and should therefore be the object of sympathy or

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86 'Report on the Committee on Lunacy Law', *Lancet*, (1878) i, p.504.

87 Bucknill, *The Care of the Insane*, p.38.

88 Bucknill, *The Care of the Insane*, p.ix.

89 Bucknill, *The Care of the Insane*, p.ix.



condemnation, was constructed on rival conceptions of humanity and inhumanity. It was not McNaughten himself who was the primary subject of discussion, but the public's 'proper' response to the murder of Drummond. In Sibbald's terms, we might consider the McNaughten case as it was debated in the press as one which indicates the 'increased comprehensiveness of signification' which was initiated by the 'revolution in public sentiment' towards the insane. The 1877 Inquiry, too, provides an opportunity for exploring the understanding of and significance attributed to the 'public mind'. Though the Inquiry itself was not radical in its conclusions, it remains significant for our understanding of the full implications that the 'increased comprehensiveness of signification' had on lunacy reform. In becoming entangled in debates over responsibility and accountability, issues which had previously been jealously guarded by both medicine and law, the lay-public had emerged as a powerful force in medico-legal discourse, beginning to contest and shape the terms of the debate in a manner previously unimaginable, both to themselves and others.



## Conclusion

The year after J. Stevenson Bushnan was embroiled in a controversy with Charles Reade over the novelist's treatment of wrongful confinement in *Hard Cash*, the physician published *Hints on Certifying in Cases of Insanity* (1862). He included at the end of the tract an advertisement for his own private lunatic asylum near Salisbury, Laverstock House. It was an advertisement which advocated the unique benefits of private asylum care. In addition to possessing a 'large and efficient staff of experienced male and female attendants', the institution provided an 'approved' treatment regime which incorporated 'every means of remedial treatment suggested by modern science and experience'. It was a site replete with every possible 'comfort and convenience' to aid patients the 'greatest prospect of success' in the treatment of their maladies. As the reader was forcefully reminded, Laverstock House was not solely 'a place of detention and security'.<sup>1</sup>

Bushnan's reassuring emphasis on medical expertise founded on 'experience' and 'modern science' represents a conscious attempt to allay concerns generated by the disparaging depiction of the private asylum contained in tracts, novels and pamphlets sensationally exposing instances of wrongful confinement (such as Collins's *The Woman in White* (1860) or Reade's *Hard Cash*). Like those accounts, an 'Extraordinary Narrative of an Outrageous Violation of Liberty and Law' (a penny pamphlet describing the illegal incarceration of Lady Rosina Lytton), represented the kind of hostile publicity to which Bushnan and others were forced to reply. The frontispiece illustration of the 'Extraordinary Narrative' provocatively challenged Bushnan's confident portrayal of the private lunatic asylum as an enlightened and humane site of care and treatment. In the illustration Lady Lytton is depicted, draped in white robes, as an innocent woman who is trapped in a dungeon littered with skulls. The room in which she languishes is both oppressive and ominous. The dim light cast by candles does not conceal a skeleton in the corner of the room. Nor does it disguise the shock of her solicitor. The dramatic pictorial image of wrongful confinement is reinforced by the language: 'gloomy cell' and 'dismal dungeon of Bedlam'. The analogy between the asylum and the prison is explicit.<sup>2</sup>

These two representations of the private lunatic asylum - as the epitome of modern psychological medicine and as a Gothic den of horrors - were in explicit dialogue with one another throughout the nineteenth century. These images exemplify a series of contentious debates about wrongful confinement in private lunatic asylums in Victorian England. I have been concerned in

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1 See Figure 5 (on p.234), from J. Stevenson Bushnan, *Hints on Certifying in Cases of Insanity* (Salisbury: Frederick A. Blake, [1862]), no page number.

2 See Figure 6 (on p.235), 'Extraordinary Narrative of an Outrageous Violation of Liberty and Law' [1858], reprinted in David Lytton Cobbold, *A Blighted Marriage: The Life of Rosina Bulwer Lytton* (Knebworth: Knebworth House Education and Preservation Trust, 1999).



this study to trace the ways that this powerful cultural anxiety was articulated and negotiated from the 1840s through to the 1870s.

This was a period in which the understanding of psychological maladies, and so the care and treatment of the lunatic, was transformed. The rise of the lunatic asylum as the officially-sanctioned site of care, the introduction of new treatment regimes and the expansion of nomenclatures of insanity were all measures which psychological physicians triumphantly hailed as a sign of the successful consolidation of their professional authority over the lunatic. However, as this dissertation has argued, it was also a period marked by increasing public concern over the excessive authority of psychological physicians and deepening anxiety about the organisations whose responsibility it was to supervise the efficient operation of the lunatic asylum.

Despite confident medical declarations of skill and expertise, and notwithstanding the safeguards enshrined in legislation to prevent wrongful confinement, physicians, asylum superintendants and commissioners in lunacy were unable to successfully allay the concerns engendered by cultural representations of wrongful confinement. Two specific and interrelated developments ensured the medical community's inability to communicate to the lay-public what they perceived as their remarkable accomplishments: the expansion of medical classifications of insanity to include partial forms of lunacy (such as moral insanity and monomania), and the 'increased comprehensiveness of signification' attached to the 'idea' of insanity as it was reformulated in response to a 'revolution in popular sentiment'.

Far from reassuring the public that the expansion of classifications of insanity would give rise to the improved care and treatment of lunatics, many Victorians felt that 'new' diagnoses of moral insanity and monomania posed a direct and dangerous threat to the civil liberties of English men and women. Formulated in medico-legal trials, novels, newspaper editorials and personal accounts, this opinion was widespread. One of the most powerful tropes through which this anxiety was constructed was the Bastille of *ancien régime* France. Judging from their vociferous responses in psychological tracts and journals, physicians were attuned to the threat that the words, images and associations associated with the Parisian prison posed to their medical credibility and, ultimately, their professional aspirations.

Demonstrating the multiple levels on which the Bastille operated in debates over wrongful confinement, W.A.F. Browne was one of a number of physicians to liken the 'reign of humanity' in the care and treatment of the insane to the triumphant storming of the Bastille in 1789. Yet the words, images and associations used to describe the 'triumphs of the application of humanity' and the 'conquests over ignorance, superstition, and cruelty'<sup>3</sup> achieved by the Victorian profession of mental science were themselves subject, like the Bastille, to manipulation. As this study has

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3 Daniel Hack Tuke, *Chapters in the History of the Insane in the British Isles* (London: Kegan Paul, Trench & Co., 1882), p.501.



shown, the discourse of humanitarianism played an equally complicated role in the debates over wrongful confinement.

In 1852 Charles Dickens published an article in *Household Words* describing a visit to St Luke's Hospital for the insane. Though concerned at the absence of activities for its inmates, he applauded physicians for their 'substitution of humanity for brutality' and 'kindness for maltreatment'. While such language was used by Dickens and physicians themselves to signify the improvements in the care and treatment of the insane, it was also deployed in debates about wrongful confinement to deride the profession of mental science. In particular, the rhetoric of humanitarianism was employed to denounce their new theories of partial insanity. Perceived by many as assisting criminals to escape due retribution, moral insanity and monomania positioned physicians as excessively humane. These diagnoses exacerbated an anxiety in the 'public mind' about the aims of the 'system of mercy' and entrenched a mistrust of its 'good effects'.

Both psychological physicians and their critics in the lunacy law reform movement used a language of 'humanity' to defend their own activities and undermine their opponents. There was a crisis of 'excessive' humanity in the debates about moral insanity and monomania and in related debates about wrongful confinement. Physicians defended their theories and actions by attacking their critics as 'humanity-mongers' whose 'wild, irregular, hysterical clamour'<sup>4</sup> constituted a 'morbid excess' of 'humane feeling' on the subject of insanity. In turn, the lunacy law reformers, recognising the rhetorical value of the language of 'humanity' - its power to influence the public - attacked the physicians as being too 'soft-hearted' (to criminals) and inhumane to those falsely diagnosed with insanity.

As this dissertation has demonstrated, the debates about wrongful confinement exposed the fragility of the authority of physicians. During the decades covered here, the profession's claims of medical authority were challenged; not only in courts of law, but in the formidable court of public opinion. If it were not for what Sibbald described as the 'revolution' in the popular understanding of insanity, debates about wrongful confinement would not have been so powerfully informed and complicated by sentimentalised language and concerns with representation. Like the introduction of moral insanity and monomania to established classificatory systems, the benefits to be gained from and the problems posed by the evolution of 'popular sentiment' on the subject of wrongful confinement were hotly contested, acting to alter cultural attitudes towards not only the insane but also towards the medical profession. '[H]umanity-mongers' had become an influential factor in medico-legal discourse, challenging the authority of mental science and undermining the perception of its triumphant 'reign of humanity'.

Space restraints have prevented discussion of a number of allied issues and debates. William Parry-Jones's *The Trade in Lunacy*, remains an important point of reference for scholars

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<sup>4</sup> Hack Tuke, *Chapters*, p.500.



interested in the origins of wrongful confinement in the eighteenth century. Though this area is only of peripheral interest here, the dissertation demonstrates more generally the necessity for a critical re-evaluation of the origins of the 'trade in lunacy'. Similarly, there has not been space to consider the significant role debates about wrongful confinement played in <sup>the</sup> passing of the Lunacy Acts Amendment Act of 1889.<sup>5</sup> I have been concerned here to explore cases of wrongful confinement which turned on the *contested* diagnoses of moral insanity and monomania, and to examine the debates and anxieties they engendered. For this reason, I have deliberately not attempted to assess quantitatively whether these two forms of partial insanity contributed to an actual increase in the numbers wrongfully confined in English lunatic asylums. Though posing its own difficulties, this is an avenue which remains important to pursue.

The 'hue and cry' surrounding cultural representations of wrongful confinement offer an invaluable site through which to understand how Victorians perceived both madness and the practice and practitioners of psychological medicine. The debates also present a vehicle through which to consider medical conceptions of alleged lunatics and their families, a frame of reference too often overlooked. In refocusing attention on cultural values, perceptions and attitudes, and exploring the complex utilisation and manipulation of the 'rhetoric of intentions', this study challenges scholars to reconceptualise the value of debates about wrongful incarceration in Victorian society and culture. This is especially the case because so many of the debates here discussed were influenced by and contributed to debates taking place in other <sup>fields</sup>. The significance we should thus accord to the wider ramifications of these debates (about liberty, tyranny, autonomy and the individual and the state) cannot be underestimated.

The dangers of and benefits to be gained from the diagnosis of moral insanity were debated until the early twentieth century. Subject to the powerful influence of degenerationist theory, and the rise of a biologically-determinist interpretive model of mental disorder, the term 'moral insanity' was replaced initially by the terms 'moral imbecility' and 'moral idiocy', and later with the term 'psychopathic' or 'sociopathic' personality'.<sup>6</sup> The doctrine of monomania suffered a similar fate. In the latter decades of the nineteenth century, French psychiatrists initiated the removal of the term from medical vocabularies.<sup>7</sup> Considering the problems that both terms posed to the legal and medical professions, it was inevitable that they would be replaced with less contentious terms. What remains remarkable, and necessary for this study, is the fact that moral

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5 This was an act which addressed one of the key anxieties of lay lunacy law reformers by demanding the signature of a magistrate prior to committal to private lunatic asylums. On the ramifications of this Act, see Peter McCandless, 'Dangerous to themselves and Others: the Victorian Debate over the Prevention of Wrongful Confinement', *Journal of British Studies*, 23 (Fall 1983), pp.84-104.

6 Carlson and Dain, 'The Meaning of Moral Insanity', p.139.

7 Goldstein, *Console*, pp.189-196.



insanity and monomania survived in medical discourse for almost a century, in spite of the hostility they generated towards the profession of mental science.



Figure 5.

Advertisement for Laverstock House Asylum, Wiltshire [1862]

## LAVERSTOCK HOUSE ASYLUM, NEAR SALISBURY.

RESIDENT PROPRIETOR,  
DR. J. STEVENSON BUSHNAN,

LAVERSTOCK HOUSE ASYLUM, established in 1804, by the late and very eminent Dr. FINCH, is one of the largest Asylums in the Kingdom *exclusively* devoted to the reception of Private Patients. Neither pauper nor criminal lunatics are received; and the establishment having recently been almost entirely rebuilt and re-arranged, is replete with comfort and convenience, and possesses every means of remedial treatment suggested by modern science and experience.

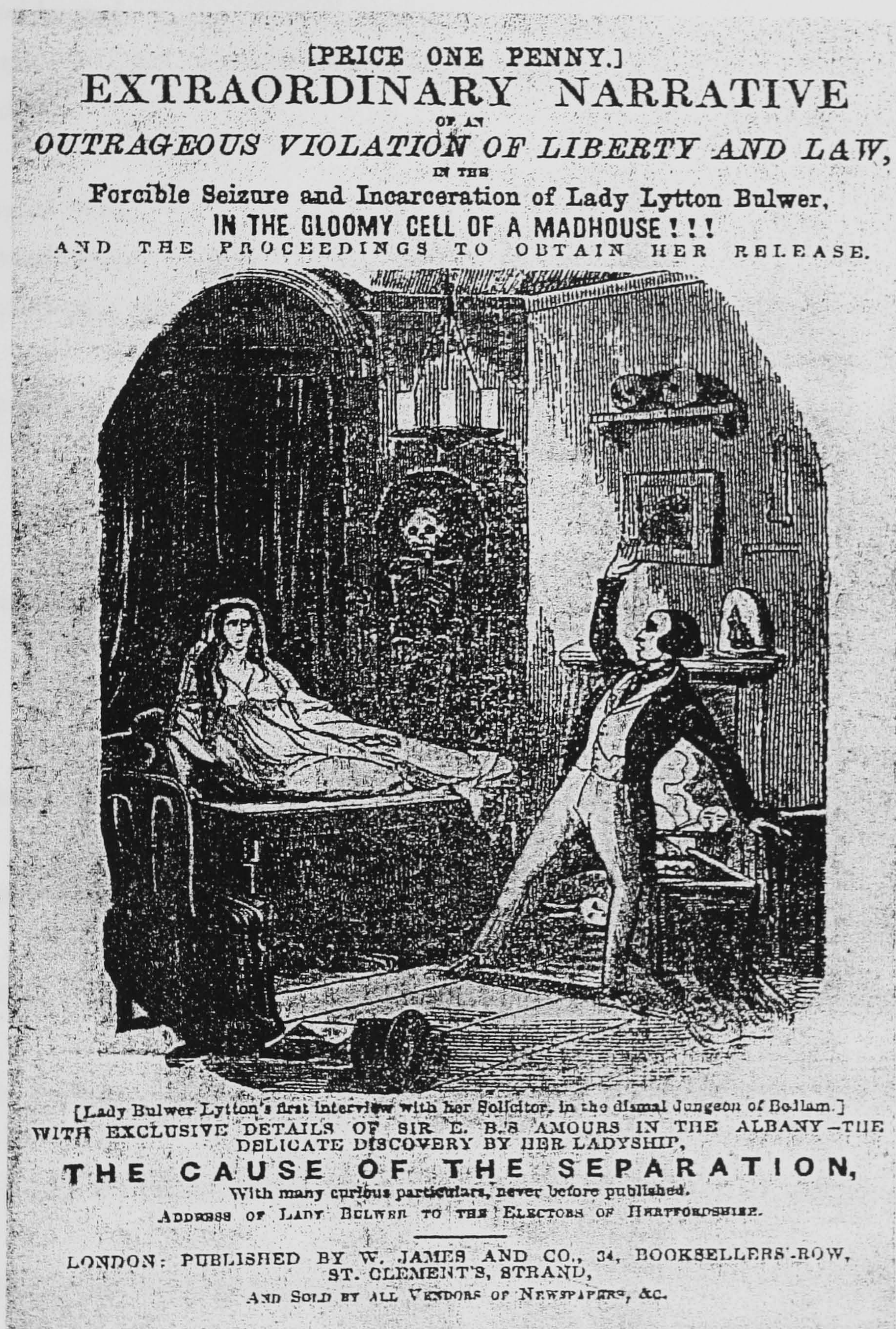
In addition to the main edifice known as Laverstock House, the Asylum embraces within its grounds several detached dwellings, appropriated to first-class patients and their private attendants—thus offering a desideratum hitherto almost unknown in this country, and a means of treating certain forms of insanity with the greatest prospect of success; while the extent of the building, the unusual facilities it affords for classification, and the possession of a large and efficient staff of experienced male and female attendants, enable Dr. BUSHNAN to receive a limited number of idiotic children and adults, and to attempt their education upon the principles recently laid before the profession.

Laverstock House is not merely a place of detention and security. In this Asylum all approved modes of cure are carried out to their full extent; amusement, and the means of distraction, are amply provided; the dietary is most liberal; and carriage exercise, one of the privileges of the higher class of patients, is allowed to others whose state of health will not permit them to join in country walks and excursions. A clergyman resides in the village; Divine Service is regularly performed in the private chapel of the Institution; and the consolations of religion are administered to those capable of receiving them.



Figure 6.

Frontispiece of 'Extraordinary Narrative of an Outrageous Violation of Liberty and Law' [1858]





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